102

SUPREME COURT OF THE UNITED STATES.

No. 67.

THE NEW ENGLAND MARINE INSURANCE COMP'Y, APP'TS.

VERSUS

THE BRIG SARAH ANN, OBADIAH WOODBURY ET AL. CLAIMANTS.

INDEX.

	Original.	Print.
Bill and Answer, &c.	1	2
Depositions for Libellants in District Court	15	8
Decree of District Court	36	17
Protest, Abandonment, &c.	37	18
Copy of Register, copy of Policy of Insurance, &c.	43	21
Depositions for Libellants	54	26
viz:		
Atkins Adams	54	26
Shubael Worth	62	30
C. Bunker	81	38
Ariel Coffin	84	39
Isaac Hodges	85	40
Benjamin Gardner, 4th	87	41
Abner Pease	91	44
Depositions for Respondents,	100	47
viz:		
Joseph Starbuck	117	55
William Coffin	120	57
Levi Starbuck	123	58
Thos. V. McCleve	128	61
Elisha Starbuck	134	64
Paul West	143	70
Matthew Mitchell	147	72
George Myrick, jr.	154	76
George Myrick	166	81
Matthew Myrick	183	88
Franklin Macy	188	90
Decree of Circuit Court	197	95
Appeal and Stipulation	198	95

UNITED STATES OF AMERICA,
Massachusetts District, ss.

At the circuit court of the United States for the first circuit, begun and holden at Boston within and for the district of Massachusetts, on Friday, the 15th day of May, in the year of our Lord one thousand eight hundred and thirty-five.

Before the honourable JOSEPH STORY, associate justice, JOHN DAVIS, district judge:

The New England Marine Insurance Company, appellants from a decree of the district court of the United States, holden at Boston, within and for the Massachusetts district, on the second Tuesday being the ninth day of September, in the year of our Lord one thousand eight hundred and thirty-four, in which said district court the said New England Marine Insurance Company were libellants against the brig Sarah Ann, Obadiah Woodbury, Charles Fitz, and Philip Priestly, claimants, respondents and appellants.

This appeal was entered in this court at the present May term, A.D. 1835, and by consent of parties was considered by the court to be entered as of the October term of this court, A.D. 1334, when a transcript of the record in the said district court was filed by the said appellants, and is as follows:

Transcript of Record in District Court.

UNITED STATES OF AMERICA,
Massachusetts District, ss.

At the district court of the United States, begun and holden at Boston within and for the Massachusetts district, on the second Tuesday being the ninth day of September, in the year of our Lord one thousand eight hundred and thirty-four.

Before the honourable John Davis, district judge.

NEW ENGLAND MARINE INSURANCE COMPANY, Libellants,
vs.
The BRIG SARAH ANN, OBADIAH WOODBURY et als., Claimants and Respondents.

At the December term of this court, A.D. 1833, to wit, on the eighth day of February, A.D. 1834, the libel in this cause was filed in court, and is as follows:

Libel.

To the honourable John Davis, judge of the district court of the United States for the district of Massachusetts:

The libel of the New England Marine Insurance Company, in the said district, respectfully shews, that your libellants are the true owners of a certain brig or vessel called the Sarah Ann, now lying in the harbor of Gloucester within said district, and in the possession of Obadiah Woodbury, and others, of Gloucester aforesaid, who claim to be owners of said vessel and refuse to permit your libellants to take possession thereof, and intend, as your libellants are informed and verily believe, to carry or send said vessel to sea without and against their will and consent, and to their great loss and damage.

Wherefore your libellants humbly pray process and monition to the said Obadiah Woodbury and others, to shew cause, if any they have, why they

should not deliver up possession of the said vessel to your libellants, and admiralty process should not issue against said vessel.

JAMES HALL,
President N. E. Marine Insurance Company.

JNO. PICKERING,
Proctor for Libellants.

February 8, 1834. Sworn to in court by the said James Hall.
Attest, FRANCIS BASSETT, Clerk.

On the filing of said libel, by order of court, a summons was issued to the said Obadiah Woodbury and others, commanding them to appear and shew cause why said brig Sarah Ann should not be delivered up to the libellants aforesaid, or why admiralty process should not issue against said brig as prayed for in said libel, returnable on the twelfth day of February, A.D. 1834, on which summons return was made as follows:

UNITED STATES OF AMERICA,
District of Massachusetts.

Boston, 10th February, 1834.

Pursuant hereunto, I have summoned the within named Woodbury to appear as herein directed, by giving him in hand a true and attested copy of this summons.

HORATIO BASS, Dep. Marshal.

On the said twelfth day of February, A.D. 1834, admiralty process was ordered to issue against said vessel unless stipulation should be forthwith given.

Stipulation of Obadiah Woodbury.

Then personally appeared the said Obadiah Woodbury, of Gloucester, in the county of Essex and district of Massachusetts, merchant, and the said Obadiah, in behalf of himself and Philip Priestly and Charles Fitz, both of said Gloucester, and with him, owners of the said brig Sarah Ann, submitting himself to the jurisdiction of this court, bound himself, his heirs, executors and administrators, in the sum of twenty-five hundred dollars, unto the said New England Marine Insurance Company, that they the said Woodbury, Priestly and Fitz will deliver up to the said libellants the said brig Sarah Ann in as good condition as she now is (ordinary wear and tear excepted) if such shall be the final decree, and to abide all such orders and decrees, as well interlocutory as final, and to pay all such costs and expenses as shall be adjudged by this court, or upon appeal by the proper appellate court in the premises.

On the said twelfth day of February, A.D. 1834, the court further ordered that answer be filed on or before the first day of March, A.D. 1834.

On the said first day of said March the following answer was filed in the clerk's office.

Answer.

District Court of the United States, December term, 1833.

NEW ENGLAND MARINE INSURANCE COMPANY, Libellants,
vs.
OBADIAH WOODBURY et als., Respondents.

Now come Obadiah Woodbury, Charles Fitz, and Philip Priestly, all of

Gloucester, mariners, by Charles P. Curtis, their proctor, and claim the said brig Sarah Ann, her tackle and apparel, as their own property.

And the respondents for answer to the said libel, say: that on the ninth day of May, A. D. eighteen hundred and twenty-eight, the said brig was duly registered at the port of Nantucket as the property of Philip A. Folger, Valentine Hussey, and Francis F. Hussey, all residents of that place, who were the owners thereof, and a certificate of registry in due form of law was granted to said Folger, Hussey, and Hussey, by the collector of the said port of Nantucket; that on or about the said fourteenth day of May, aforesaid, the said brig arrived in Boston under the command, and in the possession of the said Francis F. Hussey, for himself and the other persons above named, as owners thereof, where she remained until the twenty-second day of July, in the year aforesaid; when the said brig was sold by Charles W. Cartwright of Boston, as attorney for the said Folger, Hussey, and Hussey, for the sum of three thousand dollars, which was a full and adequate consideration for the same, and which was paid to him by Obadiah Woodbury, William Stephens, Isaac Tomes, Abraham Elwell, and Elias Davison, all of Gloucester, to whom the said brig was then and there duly transferred by bill of sale, conformable to the acts of Congress, in such case made and provided; and was forthwith registered in their names as owners. That the facts of the arrival of the said brig in Boston, at the time aforesaid, and of the ownership and the possession of said brig by the said Folger, Hussey, and Hussey, or by their agent or agents in their behalf, were then well known to the libellants, or to the officers of the said company; and that no offer or attempt was made by the said libellants, or by any person in their behalf, to obtain possession of the said brig: nor was any notice, express or implied, direct or constructive, given to, or received by the said Woodbury and the other vendees of the said brig, of any right, title, claim or interest, in the said brig, as existing in the said libellants, or in any person or persons, other than the said Folger, Hussey, and Hussey, at that time, nor until long after the purchase aforesaid. That while the said Folger, Hussey, and Hussey were owners of said vessel, they expended a very large sum of money in order to repair and render her fit for sea, and large sums have been expended upon her since by the respondents; that by sundry conveyances from the said William Stevens, Isaac Somes, Abraham Elwell, and Elias Davison, of their shares of the said vessel to the respondents or some of them at divers times, since the date of the said first purchase; the whole interest and property in the said vessel is vested in the respondents, who have used, managed, and dealt with, the same as their own, without any interruption from the libellants, or any offer or attempt on their part to take possession thereof, and without any notice whatever of any title, or claim of title on their part, until the latter part of last year. And the said respondents deny that the libellants are or ever were the true owners of the said brig and her appurtenances; and they pray, that they may be discharged from this process, and that the said vessel may be restored to them, and their costs in this behalf expended, may be allowed to them by

CHARLES P. CURTIS,
Proctor for the respondents.

From said December term, A. D. 1833, the cause was continued to the March term, 1834, when, to wit: on the eleventh day of april, A. D. 1834, the following petition of the New England Marine Insurance Company, for admiralty process was filed in court.

104.

Petition for Admiralty process.

To the honorable John Davis, Judge of the district court of the District of Massachusetts.

The petition of James Hall, President of the New England Marine Insurance Company, in said district, and on behalf of said company, humbly shows: that heretofore, to wit: on the eighth day of February last past, the said insurance company filed their libel against the brig Sarah Ann, claimed by them as their sole property; and upon notice of said libel, one Obadiah Woodbury, of Gloucester, appeared and entered into a stipulation on behalf of himself and divers other persons, to deliver up said brig to said libellants, if such should be the order of court thereon, as well as to abide all such orders of this court as should be made touching the premises. And your petitioner further represents, that said Woodbury has since that time become bankrupt, and your petitioner is informed, and verily believes that the said brig Sarah Ann is now actually loading and preparing to go to sea, and the said libellants are in danger of losing their property aforesaid, and all benefit of said security; wherefore your petitioner prays, on behalf of said insurance company, that admiralty process may issue against the said brig, and notice to William Beach and Robert Rantoul jr., assignees of said Woodbury, and such other proceedings had in the premises, as to law and right may appertain.

JAMES HALL,
President N. E. Ins'ce Company.

JNO. PICKERING, for petitioner.

April 11th, 1834.

Sworn to in court by
Attest

JAMES HALL.
FRANCIS BASSETT, Clerk.

Order on Petition.

Whereupon the court ordered, that a warrant issue to the marshal, to arrest and take into custody the brig Sarah Ann, and to give notice to the said Obadiah Woodbury, and to his assignees, that hearing will be had on said petition in this court, on Friday the eighteenth instant, at eleven o'clock A. M.

Additional stipulation.

On the said eighteenth day of April, A. D. 1834, said warrant of arrest was superseded by agreement of parties, upon additional stipulation being entered into:

Then personally appeared George H. Rogers, of Gloucester, in the county of Essex, and district of Massachusetts, merchant; and the said George H. Rogers as charterer and part owner of said brig Sarah Ann, submitted himself to the jurisdiction of this court, and bound himself, his heirs, executors, and administrators, in the sum of twenty-five hundred dollars unto the said New England Marine Insurance company, that Obadiah Woodbury, Philip Priestly, and Charles Fitz, the respondents in the cause aforesaid, shall abide all such orders and decrees, as well interlocutory as final, and pay all such costs and expenses as shall be adjudged by this court, or upon appeal, by the proper appellate court in the premises.

At the same March term, to wit: on the twenty-sixth day of April, A. D. 1834, the following replication was filed in the clerk's office:

Replication.

MASSACHUSETTS DISTRICT, *ss.*
District Court, March term, 1834.

THE NEW ENGLAND MARINE INSURANCE COMPANY,
vs.
OBADIAH WOODBURY and al., Respondents.

The replication of the said New England Marine Insurance Company to the answer of the said Obadiah Woodbury, Charles Fitz, and Philip Priestly, or to so much thereof as it is necessary for the said insurance company to reply unto.

The said repliant saving and reserving all benefit of exception to the uncertainties and insufficiences in the said answer contained, and of all matters of fact therein stated, acknowledged or confessed, for replication to so much of the said answer as these repliants deny to be true, propound and say, that the said brig Sarah Ann, on the first day of March, in the year one thousand eight hundred and twenty-eight, was owned by John Crosby jr., Elias Dudley, and Reuben K. Stetson, all of Hampden, in the State of Maine, to whom, as joint owners, a certificate of registry of said brig in due form of law was granted by the collector of the customs for the district of Belfast, in said State of Maine. That afterwards, to wit: on the said first day of March, the said owners caused the said brig to be insured at the office of the said New England Marine Insurance Company, in port, or at sea, during the term of one year from the twenty-second day of February, in the year one thousand eight hundred and twenty-eight. That during the said term of time, and while the said brig was at sea, to wit: on the twenty-eighth day of March, in the year one thousand eight hundred and twenty-eight, the said brig by perils of the sea was stranded, on the shore of the island of Nantucket, in said district of Massachusetts, and on the next day, to wit: the twenty ninth day of said month of March, an abandonment of her was made by said owners to the said New England Insurance company, whereby all the right, title, interest, and property of said owners, in said brig and her tackle, apparel and appurtenances were vested in, and became the sole property of the said New England Insurance company. And the said replicants further say, that after the said brig was on shore as aforesaid, she was not, by reason of said stranding, rendered incapable of being got off, and of being repaired in a suitable manner to proceed to sea again; but, on the contrary, they aver, that she might have been floated off from said shore, and have been fitted for sea again, if proper and necessary exertions had been made for that purpose. And the master of said brig did, without any authority from the said New England Marine Insurance company, and contrary to law, proceed to take out the sails, rigging, and other appurtenances from the hull of said brig, and carry them on shore, and did then and there proceed to make sale of the said hull, sails and rigging, and other appurtenances, as the same then and there lay; and an auction sale of the whole property aforesaid, was then and there pretended to be had and made upon the shore aforesaid, for the gross amount of five hundred and forty-nine dollars and fifty-seven cents, of which amount the sum of one hundred

and twenty-seven dollars was allowed for the hull of said brig; the sum of three hundred and ninety-two dollars for the sails, rigging and other appurtenances, which had been taken from said brig and brought to a place of safety on land; and the sum of twenty-nine dollars and eighty-three cents for charges of said supposed *sale*. And at the said supposed *sale*, the said brig, with her sails, rigging and other appurtenances, were pretended to be sold to certain purchasers, including the several persons named as owners thereof in the answer of the said respondents, to wit; Philip H. Folger, Valentine Hussey, and Francis H. Hussey, who, as the said respondents allege, sold and conveyed the same to them the said respondents, in manner as they above set forth in their said answer.

And your libellants deny that the said master of the brig had any right, power or authority to sell and dispose of the said vessel, and her sails, rigging and other appurtenances, or to suffer the same to be sold and disposed off as aforeiaid; and they deny that the said Folger, Hussey, and Hussey, or those claiming title under them, could acquire, or did acquire any right, title, interest or property, in or to the said vessel and appurtenances belonging to your libellants as aforesaid; but your libellants aver, that notwithstanding the said supposed sale, they continued to be, and ever since the abandonment aforesaid, have been, and still are the lawful owners of the said brig and her appurtenances, and of right ought to be in the quiet possession and enjoyment thereof.

And for further replication to so much of said answer as your libellants are bound to deny, your libellants denying any necessity for the selling of the said brig and her appurtenances, and denying any right, power, or authority of the said master to sell or to suffer the same to be sold, and any right, title, interest, or property of the persons claiming under, or by virtue of said sale as aforesaid, further propound and say, that immediately upon being informed of the said supposed sale, they gave notice to the said Folger, Hussey, and Hussey, that they did not in any way acknowledge or affirm the said supposed sale, but on the contrary, denied the same to have been in any manner authorized by them, the said libellants. Wherefore, your libellants, as before, pray that the possession of said brig and her appurtenances may be restored to them, and for their costs. By

JOHN PICKERING,
Proctor for Libellants.

From said March term A. D. 1834, the cause was continued to the June term, and from thence to this present term, and now, to wit, on the seventh day of November A. D. 1834, the following rejoinder is filed in court:

Rejoinder.

MASSACHUSETTS DISTRICT, *District Court*, September Term, 1834.

NEW ENGLAND MARINE INSURANCE COMPANY, libellants,
vs.
OBADIAH WOODBURY and others, respondents.

The said respondents, by way of rejoinder to the replication of the libellants (reserving all exceptions, &c.) say, that by the abandonment of the said vessel alleged to have been made on the twenty-ninth day of March, eighteen hundred and twenty-eight, by the said John Crosby, junior, Elias

Dudley and Reuben K. Stetson to the libellants, the property of the said vessel and her appurtenances was not vested in the said libellants, as they allege, because the libellants afterwards, on the fifth day of April next following, rejected and refused to accept the abandonment thereof. And the said respondents admitting that the said vessel was stranded on the Island of Nantucket, as alleged by the libellants, further say, that the sale of the same by the master, as alleged by the libellants, was justifiable and necessary; and that the property and title thereof was by force and virtue of said sale vested in the said Folger, Hussey, and Hussey; from whom the respondents, or some of them, purchased her as above set forth in their answer to the libel aforesaid.

And the respondents further say, that the libellants did not immediately upon being informed of the sale of the said vessel, give notice to said Folger, Hussey, and Hussey, that they did not affirm the said sale, but the libellants, although notified of said sale, and that the said vessel was then lying in the harbor of Boston, to wit, on or about the fourteenth of May, A. D. eighteen hundred and twenty-eight, neglected to give any notice to the said Hussey, Folger, and Hussey of their supposed claim to the said vessel, until long after the sale thereof by said Hussey, Folger, and Hussey to the respondents, in manner aforesaid. Wherefore, the respondents pray that they may be discharged, and that their right and title to the said vessel and appurtenances may be confirmed, and their costs allowed them.

By their attorney, CHARLES P. CURTIS.

The respondents give notice to the libellants to produce and file in this cause, the letter of James Hall, esquire, President of the New England Marine Insurance Company to Thomas Curtis, dated April 5th, 1828, in answer to said Curtis's letter of abandonment, dated March 29th, 1828, or a true copy of said letter.

C. P. CURTIS,
Attorney for Respondents.

MEMO.—The original of the above letter was delivered up to Mr. Hall by Mr. Thomas Curtis.

Depositions of Brown and Smith for libellants, are as follows:

Commission for Plaintiff.

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

[SEAL.] The District Court of the United States, within and for the Massachusetts District, to any counsellor at law of Bangor, in the State of Maine, who is not of counsel for, or employed by either party in the cause herein after named:

Know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of Elijah Brown and John L. Smith, both of Hampden, in the county of Penobscot, and State of Maine, mariners, and such other persons as shall be produced as witnesses on behalf of the plaintiffs in the cause herein after mentioned. No person to attend at the examination of the witnesses, except the commissioner, to be used in a certain cause now pending in said court, wherein the

New England Insurance Company are libellants, and Obadiah Woodbury and others are respondents. And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same, so taken and subscribed, to return, together with this commission and your doings herein enclosed, sealed and directed to the district court aforesaid, to be holden at Boston so soon as you shall have executed the same.

In testimony whereof, we have caused the seal of the said district court to be hereunto affixed.

Witness the honorable John Davis, at Boston, this eighteenth day of October, in the year of our Lord one thousand eight hundred and thirty-four.

Signed FRANCIS BASSETT, Clerk.

STATE OF MAINE, *City of Bangor, County of Penobscot.*

In pursuance of the directions in the within commission, I, on this twenty-fourth day of October, A. D. 1834, caused the within named Elijah Brown and John L. Smith to appear before me, and I examined each witness on oath touching the matters inquired of, and reduced the answers of said deponents to writing, and the same were subscribed by the witnesses aforesaid in my presence, and are hereto annexed. No person except the commissioner attended the examination aforesaid.

EDWARD KENT,
Counsellor at Law of Bangor, and Justice of the Peace qualified to administer Oaths.

FEES.—E. Brown's answers, justice's fees	$5 00
Deponent's travel and attendance	2 50
J. L. Smith's justice's fees	4 00
Deponent's travel and attendance	3 00
	$14 50

Interrogatories by Plaintiff.

Interrogatories to be proposed to Elijah Brown and John L. Smith, both of Hampden, in the county of Penobscot, and State of Maine, mariners, and such other persons as shall be produced as witnesses on behalf of the plaintiffs in a certain cause now pending in the district court of Massachusetts, wherein the New England Marine Insurance Company is the party plaintiff, and Obadiah Woodbury and others, are defendants.

1. Did you sail in the brig Sarah Ann, John Phillips, master, on her passage from Savannah for Boston, in or about the month of March, 1828? if yea, in what capacity did you go, and who were owners of her?

2. Whereabouts on the passage were you on or about the twenty-second day of March aforesaid, and what weather had you at that time?

3. Whether or not the said brig got on shore on the Island of Nantucket? if yea, on what day of the month and week, and at what time of day was it?

and was the weather fair or otherwise; and were the winds light or otherwise, and from what point of compass?

4. After the brig got on shore, did or did not any persons come over from the town of Nantucket, and take charge of the brig? if yea, who were those persons, and did they or not bring any hands with them?

5. Did the brig lie head or stern on to the shore?

6. What was the condition of said brig on said passage; in what order were her hull, sails, and rigging?

7. Whether or not she had sustained any damage before she was run ashore?

8. What kind of a shore was it where the brig lay? was it sandy or rocky, hard or soft?

9. What was the state of the weather, and what the direction of the wind, from the time the brig got ashore till you left the place?

10. Whether or not the brig was at any time high and dry upon the beach?

11. Whether or not the sea at any time washed over the deck of the brig whilst lying on the beach; what depth of water there was about her; and whether or not she was ever entirely out of water at low tide?

12. The first night the brig got on shore, did you or not try the pumps? if yea, whether or not she made any water?

13. What was the deck load of the brig; was it discharged or not, as she lay; and did you or not, discharge all the rest of the cargo out of her hold? if yea, when was that finished?

14. Whether or not, any attempts were made, and what, and by whom, to get the brig off? if yea, what measures were taken for that purpose?

15. After discharging the cargo, what was done with the spars, sails and rigging?

16. Whether or not, after the cargo was all out, the vessel became loose in the sand?

17. What did the cargo consist of, and whether it was damaged or not before being taken out of the brig?

18. Whether or not, as you proceeded in discharging the cargo, the brig lightened or moved in the sand?

19. Whether or not the brig shifted her ground at different times? if yea, was she at any times head off and head on shore; and whether or not, when thus moving she could have been got afloat?

20. How many anchors and cables had the brig, and of what size; and whether or not there was a purchase on either, and which of the cables, when any attempt was made (if any) to get her off?

21. Was or was not the brig, with her spars, sails and rigging sold? if yea, in what place, and whether all sold together, or in separate lots, and how many lots?

22. Whether or not any other attempt was made to get her off than you have before spoken of; and whether such other attempt was before or after the sale.

23. On what day of the week did you leave the brig, and when was the next time that you saw her, and what was her situation at the time last mentioned, and how did she head?

24. Whether or no, in your opinion, all the efforts were made which might and ought to have been made to get the brig off? and state your reasons for that opinion. (Objected to).

25. Whether or not any other attempt was made to get the brig off after she was discharged, and before she was sold; and in what position did she then lie, and how did she head?

26. What was your opinion of the practicability of getting her off, and whether or not you expressed to the crew, or to any other persons, your opinion as to the practicability of her being got off with proper exertions? if yea, state what opinion you expressed. (Objected to.)

27. Whether or not, upon your arrival in Boston, after the sale, you expressed to the President of the New England Insurance Office (Mr. Hall) any opinion as to the brig's being off by that time? if yea, what opinion did you express to him, and was it or not your sincere opinion and belief? (Objected to.)

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the matters in question in this cause, and particularly respecting the practicability of getting the said brig off; and the efforts, if any, made for that purpose, that may tend to the benefit of the plaintiffs, beyond what you have been interrogated unto? Declare the same fully and at large, as if you had been particularly interrogated thereto.

JNO. PICKERING,
of Counsel for Libellants

A true copy of interrogatories.
Attest: FRANCIS BASSETT, Clerk.

The defendants object to the 24th, 26th, and 27th interrogatories, by their Proctor,

C. P. CURTIS.

A true copy of objections to interrogatories.
Attest: FRANCIS BASSETT, Clerk.

Cross-interrogatories by Claimants.

Cross-interrogatories proposed by C. P. Curtis, proctor for libellees.

1. What is the age of Captain Phillips?
2. Where is Captain John Phillips, at this time?
3. For what reasons were the sails and rigging taken off the brig?
4. Were you present at the sale of the brig and appurtenances?
5. What is your age, and how many years have you been a seaman?
6. If you say that persons from Nantucket came on board and took charge of the brig Sarah Ann, please to say what you mean by that statement; did they dispossess and deprive Capt. Phillips of the command, or did they act by his request?
7. Who appeared to be the principal of the persons from Nantucket who came to the assistance of Captain Phillips?
8. Have you had any experience other than in the Sarah Ann, of the dangers of lying stranded on the South side of the island of Nantucket, in the months of March and April? Have you ever before or since been wrecked or stranded there? if yea, in what vessel or vessels; and in what part or place in the island were you wrecked or stranded, and at what season of the year?
9. Did you not experience a storm while you were stranded on Nantucket,

in which you were obliged to cut or slip both your cables and anchors, and did they succeed ?

10. If you say that the brig might have been got afloat, state why you and the officers and crew did not get her afloat ?

11. On what day of the week did the crew leave the brig, on what day did you yourself leave her ? why did you quit her so soon, and why did you not stay by her ?

12. When you saw the brig next after you left her, was she in the same place as when you quitted her, or had she drifted, and how far ?

13. Why was not the brig got off the next tide after she went on to the beach or shore ?

14. Did all the heaving on the cables and anchors never move the brig at all ?

By C. P. CURTIS,
Proctor for Libellees.

A true copy of the cross-interrogatories.
Attest : FRANCIS BASSETT, Clerk.

Answers of Elijah Brown.

Answers of Elijah Brown, of Hampden, county of Penobscot and State of Maine, to the interrogatories proposed by the plaintiff in the suit: The New England Insurance Company, libellants vs. Obadiah Woodbury et als. respondents, as annexed to this commission.

1. To the first interrogatory the deponent answers, that he did sail in the brig Sarah Ann, John Phillips master, on her passage from Savannah for Boston, in the month of March, A. D. 1828, in the capacity of first officer or mate. Crosby and Dudley, of Hampden, were the owners of her.

2. To the second interrogatory the deponent answers: That on that day named we were (or about that time) off the Vineyard sound, and the weather was fair.

3. To the 3d interrogatory the deponent says : That the vessel aforesaid, did get on the shore on the island of Nantucket, on or about the twenty-second day of March, in the year aforesaid. I cannot remember the particular day of the month or week. The vessel went on shore about eight o'clock in the evening. The weather was fair; there was a pleasant and not a heavy wind, and it was from the westward.

4. To the 4th interrogatory deponent says : That after the brig got on shore, George Myrick and George Myrick jun'r, did come over from Nantucket, and they took charge of the brig, and they brought several hands with them. Myrick and Myrick jun'r, came over the day after the brig run on shore.

5. To the fifth interrogatory deponent says: That the vessel run head on to the shore, and continued to lay so during the next day, and soon after a gale of wind commenced from the South, and she then went *broadside* on the shore.

6. To the 6th interrogatory deponent answers: That the brig on said passage was in good order in all respects in her hull, sails and rigging.

7. To the 7th interrogatory deponent answers: That she had sustained no damage before she was run on shore.

8. To the 8th interrogatory deponent answers: That the shore where the brig went on and laid was a sandy beach.

9. To the 9th interrogatory deponent answers: That we had one pretty severe gale of wind before referred to in my answer to the 5th interrogatory of about fifteen hours duration, blowing on to the shore. The rest of the time, for the five days after the brig run on shore, before I left the place was variable weather; nothing remarkable about it.

10. To the 10th interrogatory deponent answers: That the brig at no time was high and dry upon the beach.

11. To the 11th interrogatory deponent answers: That the sea at no time washed over the deck, whilst lying on the beach. The depth of water about her varied; sometimes it was ten feet; and sometimes not more than six feet. Before I left her she was driven farther on shore, and then I should think there was not more than six feet of water around her. She was never entirely out of water at low tide.

12. To the twelfth interrogatory deponent answers: That the first night the brig got on shore, we did try the pumps, and the brig made but very little water.

13. To the 13th interrogatory deponent answers: That the deck load of the brig was pitch-pine plank and light barrels. We threw the deck load overboard, whether before Myrick came or not, I cannot remember; and we discharged the rest of the cargo out of the hold after Myricks took charge, and under their superintendance, and it was finished in about four days from the time she struck;—it might be five days. I cannot remember precisely.

14. To the 14th interrogatory deponent answers: That after the Mr. Myricks took charge, some attempts were made to get her off, by the men belonging to the brig, and their men. Both anchors were carried out backed by the kedge, the cables to the windlass, and we hove upon them. I know of no other attempts to get her off. The attempt we made did not succeed.

15. To the 15th interrogatory deponent answers: That after discharging the cargo, the spars, sails and rigging were stripped off and taken on shore, and sold in small lots to the highest bidder. This was done soon after the cargo was discharged.

16. To the 16th interrogatory deponent answers: That after the cargo was all out, the vessel became loose in the sand, and *slewed* round with her head off shore.

17. To the 17th interrogatory deponent answers: That the cargo in the hold was rice and cotton, and it was not damaged but very little, if any; some of the bottom casks of the rice were wet a little.

18. To the eighteenth interrogatory deponent answers: That as we proceeded in discharging the cargo, the brig lightened and moved in the sand.

19. To the 19th interrogatory deponent answers: That the brig moved as mentioned in the 16th answer, and not otherwise, according to my recollection. I think that the prospect to get her off was quite favorable, and I think she might have been got off, but cannot of course, speak with absolute certainty.

20. To the 20th interrogatory deponent answers: That the brig had two anchors and two cables of the size usual in vessels of her size (which was about two hundred tons), one chain and one hemp cable, and there was a purchase on one cable when we attempted to get her off.

21. To the 21st interrogatory deponent answers: That the brig and her spars, sails and rigging were sold; the brig where she lay, and the spars, sails, and rigging were sold in small lots on the shore where she lay.

22. To the 22d interrogatory deponent answers, by reference to his answer to the 14th interrogatory.

23. To the 23d interrogatory deponent answers, that he does not remember on what day of the week he left the brig; and I do not remember of ever seeing her again.

24. To the 24th interrogatory deponent answers, that he thought, at the time, that all the efforts were not made which might and ought to have been made to get the brig off; I thought they ought to have hove on the cables until they either parted them, or brought the anchors home, and I think purchases enough might have been fixed to do one or the other, or move the brig. Neither was done.

25. To the 25th interrogatory deponent answers, that he knew of no other attempt; that the brig, at time of sale, laid head off shore, moved by the motion of the sea.

26. To the 26th interrogatory deponent answers, by reference to his answer to the 19th interrogatory, and that he does not now remember expressing any opinion, at the time, to any person as to the point named in this interrogatory.

27. To the 27th interrogatory deponent answers, that upon his arrival at Boston from Nantucket, he did express to Mr. Hall, President of the New England Insurance Company, his opinion that the brig would be got off, and that she was probably off by that time; and my reasons were as before stated, because she lay head off shore, loose in the sand, and I thought if proper efforts were made she would be got off.

Last. To the last interrogatory deponent answers, that he knows nothing further

ELIJAH BROWN.

Answers of Elijah Brown to the cross-interrogatories hereto annexed.

1. To the first cross-interrogatory deponent answers, that according to his best opinion, Captain Phillips is between sixty and seventy years of age.

2. To the 2d cross-interrogatory deponent answers, that he does not know.

3. To the 3d cross-interrogatory deponent answers, that they were taken off to save them and to sell them, as I supposed.

4. To the 4th deponent answers, that he was.

5. To the 5th deponent answers, that he is now thirty-three years of age, and that he has followed the sea fifteen years.

6. To the 6th cross-interrogatory answers, that after Mr. Myricks came on board, Captain Phillips was on board but a small part of the time. They took the charge, as the deponent supposes, by the assent of Captain Phillips. He knows of nothing from which he could infer that they intended to dispossess Captain Phillips of the command.

7. To the seventh cross-interrogatory deponent answers, that the Mr. Myricks were the principal men who came on board from Nantucket.

8. To the eighth cross-interrogatory deponent answers, that he has had no other experience of the danger of lying on the south side of the Island of Nantucket, at any time, and that he never was there before or since.

9. To the ninth cross-interrogatory deponent answers, that they did experience a storm whilst lying stranded on Nantucket, as stated by me in answer to a direct interrogatory, during which we did slip both our cables, and the vessel drove further on shore; she was before held by the anchors. We were not compelled to do this, but Captain Phillips thought it would be better to let her go further on shore, and by his directions we did it.

10. To the 10th cross-interrogatory deponent answers, that the reason was that we had not men enough, and had not a proper boat sufficient to carry our anchors. We were assisted by a sloop to carry out our anchors.

11. To the 11th cross-interrogatory deponent answers, that he cannot remember the day of the week the crew left the brig, or that I left her. We staid by until the cargo was discharged, the hull, sails, and rigging sold, and nothing was left for us to do.

12. To the 12th deponent says, that he never saw her after he left her the first time.

13. To the 13th deponent answers, that he knows of no reason, except that we had not a boat sufficient to carry our anchor, and not men enough, and not prepared to attempt it. The tide was from two to three feet only ebb and flow.

14. To the 14th cross-interrogatory deponent says, that the brig moved very little, if any, by the heaving at the windlass upon the cables.

ELIJAH BROWN.

Answers of John L. Smith.

Answers of John L. Smith, of Hampden, county of Penobscot and State of Maine, to the interrogatories proposed by the plaintiffs in the case N. England Insurance Company vs. Obadiah Woodbury et als., pending in the District Court of the United States for Mass. district:

1. To the first interrogatory deponent answers, that he did so sail in the capacity of a seaman. Crosby and Dudley, and R. K. Stetson were the owners.

2. To the 2d interrogatory deponent answers, that he cannot remember the day named; but about that time we were off the Vineyard Sound; the weather was fair and moderate.

3. To the third interrogatory deponent answers, that the brig did get on shore on the Island of Nantucket; I do not remember the day of the month; it was Saturday, at about eight o'clock in the evening. The weather was fair and moderate; winds light and from the westward.

4. To the 4th interrogatory deponent answers, that on the next day two men by name of Myricks, from the town of Nantucket, did come over and took charge of the brig; and there were men employed by them also on board.

5. To the 5th deponent answers, that the brig lay head on to the shore.

6. To the 6th deponent answers, that the brig, her hull, sails and rigging on the passage were in good order.

7. To the 7th deponent answers, that she had sustained no damage, to his knowledge, before she was run on shore.

8. To the 8th deponent answers, that the shore where the brig lay was a sandy beach.

9. To the 9th deponent answers, that the weather and winds were variable; there was one gale of wind of less than 24 hours continuance.

10. To the 10th deponent answers, the brig at no time was high and dry upon the beach.

11. To the 11th deponent answers, that the sea, at no time, washed over the deck of the brig whilst on the beach. I do not know what depth of water was about her; she was never entirely out of water at low tide.

12. To the 12th deponent answers, that on said night we tried the pumps and she made very little water.

13. To the 13th deponent answers, that the deck load of the brig was pitch-pine plank and empty barrels. It was discharged as she lay, and all the rest of the cargo. The work was finished in about four days from the time she went on shore.

14. To the 14th deponent answers, that an attempt was made. The anchors were carried out; cables to the windlass with a purchase on one, and we hove upon them: the experiment failed.

15. To the 15th deponent answers, that after discharging the cargo, the sails, spars and rigging were taken from the vessel and carried on shore.

16. To the 16th deponent answers, that she did.

17. To the 17th deponent answers, that the cargo in the hold was rice and cotton, and it was not damaged but very little. A few casks of rice were wet a little.

18. To the 18th deponent answers, that the brig did lighten and move in the sand as we proceeded.

19. To the 19th deponent answers, that the brig shifted her ground some; she turned so as to head off shore. I have no doubt, with proper and suitable means, she could have been got afloat.

20. To the 20th deponent answers, that the brig had two anchors and a kedge, one chain and one hemp cable, of usual size for such a vessel; there was a purchase on one of the cables; I do not remember which, when we attempted to get her off.

21. To the 21st deponent answers, that the brig, spars, sails, and rigging were sold; the brig where she laid; sails, &c. on the shore: those on shore were in separate lots; I do not know how many lots.

22. To the twenty-second deponent answers, that no other attempt was made whilst he was there to get her off.

23. To the 23d deponent answers, that he thinks it was the (then) next Wednesday, and I saw her the next Friday, the day of the sale. She moved by the motion of the sea, and head off shore.

24. To the 24th deponent answers, that all the efforts which in his opinion might and ought to have been made were not made, because I think we ought to have hove as long as the cables and anchors held; by purchases we might have parted the cable, or brought home the anchors, or moved the brig, and we did neither.

25. To the 25th deponent answers, that no other attempt was made to his knowledge. Deponent refers to his answer to the 23d interrogatory.

26. To the 26th deponent answers, that his opinion was, at the time of the sale, that she would be got off if the weather continued favorable. I do not know that I expressed the opinion to any one.

27. To the 27th deponent says, he did not express such opinion, and did not see Mr. Hall at that time.

28. To the last interrogatory deponent says, that he knows nothing further touching the matter enquired of.

JOHN L. SMITH.

Answers of John L. Smith to the cross-interrogatories proposed by defendant, as annexed to this commission.

1. To the first cross-interrogatory deponent says, that Captain Phillips at that time was, as near as he can judge, about 60 years of age.
2. To the 2d deponent answers, that he does not know.
3. To the 3d deponent answers, that they were taken off to sell.
4. To the 4th deponent answers, that he was.
5. To the 5th deponent answers, that he is now thirty years of age; had been a seaman eight years before the loss of the brig. Since that time he has not been at sea.
6. To the 6th deponent answers, that he supposes the men from Nantucket acted by request of Captain Phillips. They took charge, and Capt. Phillips ordered the crew to observe their directions.
7. To the 7th deponent answers: the two Mr. Myricks.
8. To the 8th deponent answers: That he has had no other experience on the shore named, and never was at the island of Nantucket before or since.
9. To the 9th deponent answers: That we did experience a storm at the time. We slipped our cables, but I did not think we were obliged to do it: the anchors held. But it was thought by the officers and crew that there would be less danger of her going to pieces if she run farther in on shore.
10. In answer to the 10th deponent says: That the reason was that we had not a boat sufficient to carry out our anchors. After we had the assistance of the schooner to carry out our anchors, we did make an attempt with Myrick's men as before stated; but failed as before stated.
11. To the 11th deponent says: That the crew left the brig on Wednesday. I left same day. We left her after her cargo was out and she was stripped. We did not think it necessary to stay longer.
12. To the 12th deponent answers: That the brig had drifted a little, and she headed out from shore at this time.
13. To the 13th deponent answers: That we had no means to send out our anchors, and were not in a situation to try.
14. To the 14th deponent answers: That he does not know that it did.

JOHN L. SMITH.

Decree.

And now, by consent of parties, the court doth adjudge and decree, that the said libel stand dismissed; and that the said Obadiah Woodbury, Charles Fitz and Philip Priestly, the respondents aforesaid, recover against the said New England Marine Insurance Company, the libellants aforesaid, costs of suit, taxed at fifty-two dollars and twenty-five cents, saving to the said libellants the right of appeal, and said decree to be entered as of the first day of the term.

From the aforegoing decree the said libellants claim an appeal.

Stipulation on Appeal.

Then personally appeared James Hall, of Boston, in the county of Suffolk and said district of Massachusetts, president of the said New England Marine Insurance Company, and in behalf of said Insurance Company, who submitting himself to the jurisdiction of this court, bound himself, his heirs, executors and administrators, in the sum of three hundred dollars, unto the said Obadiah Woodbury and others, the respondents, that the said

New England Marine Insurance Company shall prosecute their said appeal to effect, and to answer all damages and costs, if they fail to make good their said claim.

And thereupon the appeal is allowed by the court.

A true copy of record. Attest FRANCIS BASSETT, Clerk.

Respondent's Motion to produce Papers.

Circuit Court U. States, May Term, 1835.

NEW ENGLAND M. INSURANCE COMPANY
vs.
OBADIAH WOODBURY et als.

At this present term, to wit, on the 25th day of May, A. D. 1835, the following motion by respondents for libellants to produce papers was made in court, and is as follows:

The respondents move the court for a rule on the libellants to produce at the trial of said cause the protest extended by the master and officers and crew of the brig Sarah Ann, at Nantucket in March, 1828. Also a letter written by James Hall, president of said Insurance Company to Thomas Curtis, dated April 5, 1828, and another letter from said Hall to said Curtis, dated May 14th, 1828, or true copies of said letters, if in their possession or control; both which letters relate to the brig Sarah Ann, and contain evidence pertinent to the issue in said cause.

C. P. CURTIS, for Respondents.

Protest brig Sarah Ann, March 28th, 1828.

And thereupon the libellants produced and filed in the cause the said protest, abandonment and letters, which are severally as follows:

UNITED STATES OF AMERICA,
Commonwealth of Massachusetts, Nantucket, ss.

By this public instrument of protest, be it known and made manifest to all whom these presents shall or may in any wise concern, that on Monday, the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and twenty eight, before me Josiah Hussey, Esquire, notary public for the county of Nantucket, duly commissioned and sworn, personally appeared John Phillips, master of brig Sarah Ann, of the burthen of one hundred and ninety-three tons, or thereabouts, belonging to the port of Hampden, in the State of Maine, and noted his protest for extension. And now on this twenty-eighth day of March, in the same year last above mentioned, the said John Phillips, master, Elijah Brown, mate, Joseph F. Gorham, John L. Smith, Samuel Fovell and Francis Gallion, mariners, all of the said brig Sarah Ann, personally appeared before me the said notary, and being by me duly sworn, did severally and respectively depose and declare as follows: that is to say, that on the ninth day of March instant the appearers set sail on board the said brig Sarah Ann, from Savannah, with a cargo consisting principally of rice and cotton, bound for Boston. Nothing material occurred in the prosecution of said voyage until the twenty-third day of March (instant) sea-time, when in the forepart of the twenty-four hours they had moderate breezes from the westward, the weather was clear and pleasant. At one P. M. they discovered land, bearing N. by E. which they supposed to be Nantucket. At 4 P. M. the land bore N. W. by N. about the distance of

fifteen miles. From 4 to 6 they sounded several times, and had from twenty to twenty-five fathoms of water. At 5 P. M. they judged themselves to be to the eastward of the shoals, and under that impression they hauled up N. E. At forty-five minutes past seven, the brig struck and grounded. There being a thick vapour on the water, they could not discern the least appearance of any land; they consequently supposed that they had struck upon some reef. At half past 12 midnight, the vapour glinn'd up, which left the land plain to be seen. At 5 A. M. two men came on board from the shore, and from them they learned that they were on the southwest part of Nantucket. At 8 A. M. had light breezes and variable. They obtained the assistance of several men from the shore. They got out both anchors the whole length of their cables, and hove tought on them. They found she did not start. There was at that time a very heavy surf rolling on the shore, which forced the brig towards the land. About 10 A. M. Geo. Myrick, Esq., the wreck agent for the port of Nantucket, came to our assistance with about twenty men. Pursuant to Mr. Myrick's directions, the deck load was immediately thrown overboard. They then hove on the cables again, but to no purpose. They then took up the hatches, and commenced discharging out of the hold. At 6 P. M. nautical time, they hove on the cables again, but to no purpose, as the tide had fallen, and there was a considerable surf rolling on shore; the captain and crew remaining on board. The day following nothing could be done, as the wind blew heavy at S. E. and there was a heavy surf. After the weather moderated, they with much difficulty got the cargo on shore. The winds and surfs of the sea had driven the brig so far on shore as to render it impossible to get her off. And the said appearers did further severally declare, that the said brig Sarah Ann, at the time of her departure from Savannah upon the said intended voyage, was tight, staunch and strong; her hatches well and sufficiently covered, and was well and sufficiently manned, provided and furnished with all things needful and necessary for the said voyage; and that during the said voyage, the said appearers and brig's company used their utmost endeavors to preserve the said brig and the goods of her loading from damage. And therefore the said John Phillips, master of said brig as aforesaid, did declare to protest, as by these presents he doth solemnly protest against all and every person or persons whom it shall or may concern. And also against all errors of judgment, waves of the sea, surfs and sands of the sea, and all disasters which have happened to said brig, and all causes which led to the same. And for all losses, costs, damages and expenses already suffered, or which may hereafter accrue, by reason of the foregoing premises. And I the said notary, at the request of the said John Phillips, late master of said brig Sarah Ann, did, and do hereby solemnly protest against the same, in manner and form aforesaid, so that all matters of insurance respecting the said brig Sarah Ann and her cargo, or either of them, may hereafter be properly adjusted and settled.

JOHN PHILLIPS, master.
ELIJAH BROWN, mate.
JOSEPH F. GORHAM,
JOHN L. SMITH,
SAMUEL L. FOVELL,
his
FRANCIS x GALLION,
mark.
} mariners.

Of all which act, being requested of me the said notary, I have granted these presents under my notarial form and seal of office, to serve and avail as occasion shall or may require.

Thus done and protested at Nantucket aforesaid, this twenty-eighth day of March, in the year of our Lord one thousand eight hundred and twenty-eight. JOSIAH HUSSEY, Notary Public.

The appearers have liberty to extend this protest elsewhere, and at any future day. J. HUSSEY, Not. Pub.

Letter of Curtis to Hall, Hall to Curtis, and 2d of Hall to Curtis.

BOSTON, 29th March, 1828.

To the President and Directors of the New England Marine Insurance Company, Boston.

Gentlemen: The brig Sarah Ann, insured at your office by policy No. 12,874, having been run on shore off Nantucket, on the 22d instant, when on her passage from Savannah to Boston, we hereby abandon the said brig to your office, and claim a total loss.

Respectfully your obed't serv't,
THOMAS CURTIS.

BOSTON, April 5, 1828.

Mr. Thomas Curtis,

Sir: Understanding this morning that the brig Sarah Ann, which was stranded on Nantucket, has been got off, and carried into Nantucket harbor, I think it proper to say to you, that this company do not accept the abandonment you made of her on the 29th March; as there has been no evidence produced to them of such a loss having taken place, as to warrant their acceptance of the abandonment. I am, however, ready to take such steps as may be thought proper for the interest of all concerned, to save whatever expenses in the matter may be saved by an early attention thereto.

Respectfully, JAMES HALL,
President N. E. M. Insur'ce Co.

Copy.

N. E. M. Ins'ce Office, May 14th, 1828.

Mr. Thomas Curtis,

Sir: Referring you to my letter of 5th April, in reply to yours of 29th March, I think it proper again to state to you, that the company do not find any reason to alter the course they have determined to take in regard to the brig Sarah Ann, and to remind you that she is now in this harbor, having been injured by being on shore at Nantucket, in a trifling degree only. It may not be amiss to observe to you, that sixty days have not elapsed since the date of your abandonment of that vessel; and as she is now within your own control, as agent for the owner, if you do not take possession of her in his behalf, the company must consider the sale of her at Nantucket as affirmed by him, and that she is sold for his a'c. We of course shall contest the validity of the sale as it regards ourselves, and we think the owners ought to contest it themselves.

Signed Respectfully, J. H., P't, &c.

MEM. The above letters were handed to Mr. Curtis by J. Waters, Sec N. E. M. Ins'ce Co.

Copy of Register of brig Sarah Ann.

Permanent.
No. 15.

And now also at this present term the following papers, to wit: Copy of the register of the brig Sarah Ann, J. Crosby, jun. and R. K. Stetson's power of attorney to Elias Dudley to settle, &c. for brig Sarah Ann, and convey their interest to the N. E. M. I. Comp. Messrs. Crosby, Dudley, J. Stetson's assignment of brig Sarah Ann to the N. E. M. I. Comp'y, and policy of insurance, were produced and filed in the cause, and are respectively as follows:

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," Reuben K. Stetson, of Hampden, in the State of Maine, mariner, having taken or subscribed the oath required by the said act, and having sworn that he, together with John Crosby, jr. and Elias Dudley, of said Hampden, merchants, and the only owners of the ship or vessel called the Sarah Ann, of Hampden, whereof Reuben K. Stetson is at present master, and a citizen of the United States, as he hath sworn, and that the said ship or vessel was built at Hampden aforesaid during the present year eighteen hundred and twenty-four, and Nathaniel Turner, measurer, having certified that the said ship or vessel has one deck and two masts, and that her length is eighty-four feet three inches, her breadth twenty-three feet nine inches, her depth eleven feet and one inch, and that she measures one hundred ninety-three and 91-95th tons; that she is a brig; has square stern, no galleries, and a billet head. And the said Reuben K. Stetson having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said brig has been duly registered at the port of Belfast. Given under my hand and seal, at the port of Belfast, this nineteenth day of November, in the year one thousand eight hundred and twenty-four.

[SEAL.]
Signed
JOSEPH NOURSE, Register.

[SEAL.]
Signed
D. LANE, Collector.

Custom-house, Belfast, June 8th, 1830.

I certify the above to be a true copy from the original.

D. LANE, Collector.

Vessel Stranded and Sold.

(Copy.)

STATE OF MASSACHUSETTS,
District and Port of Nantucket.

I hereby certify, that John Phillips, master of the brig Sarah Ann, of Hampden,
burthen one hundred ninety-three and 91-95 tons, owned by Reuben K. Stetson, John Crosby, jr. and Elias Dudley, has surrendered at this office a certificate of perm't registry, granted to the said brig by D. Lane, Esq., collector of the customs for the district of Belfast, numbered fifteen, dated November 19th, 1824. Given under my hand and seal of office at the custom-house, port of Nantucket, this 16th day of April, one thousand eight hundred and twenty-eight.

[SEAL.]

Signed MARTIN T. MORTON, Coll'r.

CUSTOM-HOUSE, Belfast, June 8th, 1830.
certify the within to be a true copy from the original.
D. LANE, Coll'r.

J. Crosby jr. and R. K. Stetson's power Attorney to Elias Dudley.

Know all men by these presents, that we, John Crosby jr. and Reuben K. Stetson of Hampden, county of Penobscot and State of Maine, in consideration of one dollar paid us by Elias Dudley of said Hampden, the receipt whereof we do hereby acknowledge, have constituted and appointed, and do hereby constitute and appoint the said Dudley our true and lawful attorney, and of each of us for us and for each of us, and in each of our names to sign, seal and deliver our deed or instrument of release or conveyance, conveying to the New England Marine Insurance Company, all the right, title and interest of us and each of us to the brig Sarah Ann, her tackle, apparel and furniture, lately wrecked on the island of Nantucket, and all claims which we or either of us have against any person or persons whatsoever, by reason of their having taken possession of said brig or her appertenances, or any part thereof, or converted the same to their own use, or of having sold the same or received the proceeds thereof, and in our names and each of us to constitute the president of said company or his successor our attorney, in our names or otherwise to commence and prosecute any suit or suits in the premises, with power of substitution; hereby meaning to empower said Dudley to execute and deliver in our names respectively any such deed or instrument in the premises as he may think right and proper, and as he may execute in his own name with us; hereby ratifying and confirming whatever our said attorney may do in the premises, and also approving and ratifying any deed or instrument which he may have already executed and delivered in our names, or of either of us for the purposes and objects aforesaid.

In witness whereof we have hereunto set our hands and seals, this first day of October, A. D. 1828.

JOHN CROSBY, Jr. [SEAL.]
REUBEN K. STETSON, [SEAL.]

In the presence of us:
CHARLES STETSON,
GEORGE STETSON.

Crosby, Dudley and Stetson's assignment.

Know all men by these presents, that we, John Crosby, junr. Elias Dudley and Reuben K. Stetson, all of Hampden, in the county of Penobscot, and State of Maine, in consideration of ten dollars to us paid by the New England Marine Insurance Company, a corporation established by the legislature of the Commonwealth of Massachusetts, and doing business in Boston, the receipt whereof is hereby acknowledged, and for divers other good causes and considerations us thereunto moving, do hereby bargain, sell, assign, transfer and set over unto the said company all our right, title and interest, in and unto the brig Sarah Ann, her tackle, apparel and furniture, lately wrecked on the island of Nantucket, and in and unto any part of the said brig, her tackle, apparel and furniture, which may have been saved from the said wreck, and also all claims and demands of every kind which we or either of us may have against any person or persons

whatsoever by reason of his or their having taken possession of the said brig, her tackle, apparel or furniture, or any part thereof, and converted the same to his or their own use; and also against any person or persons by reason of his or their having sold or disposed of the said brig, her tackle, apparel or furniture, or any part thereof, or by reason of his or their having received the proceeds of any such sale or sales; the said Insurance Company assuming the liability for all legal claims and demands which may exist, if any there be, for saving or attempting to save said brig or her appurtenances, and to save harmless said Crosby and Dudley and Stetson, and each of them therefrom. To have and to hold the aforegranted premises to the said company, their successors and assigns, to their sole use and behoof forever, and we do covenant with the said company, their successors and assigns, that we will not do any act or thing which may in any manner interfere with their rights under this assignment, or in any way be inconsistent with the same; and we do hereby constitute and appoint James Hall, of said Boston, Esquire, the President of said Company, and his successors in said office, our attorney and attorneys irrevocable in the premises in our names jointly and severally or otherwise, to the sole use of said company, but at their own expense without any costs or charges to us, to ask, demand, sue for, recover and receive all and singular the assigned premises, of and from any person or persons who may be liable to any claim therefor, and to commence and prosecute to final judgment and execution before any proper courts or tribunals any suits or actions which may be necessary in the premises, with powers of substitution and compromise; hereby giving unto our said attorney and attorneys full power and authority in the premises, to do all matters and things in the premises, which we or either of us might lawfully do if present and acting therein; hereby ratifying, allowing and confirming all things whatsoever our said attorney or attorneys may lawfully do or cause to be done in and about the premises.

In witness whereof, we the said Crosby and Dudley and Stetson, have hereunto set our hands and seals, this third day of October, in the year of our Lord eighteeen hundred and twenty-eight.

ELIAS DUDLEY, [L. S.]
JOHN CROSBY, Jr. by his Attorney Elias Dudley, [L. S.]
REUBEN K. STETSON, by his Attorney Elias Dudley. [L. S.]

Signed, sealed and delivered in presence of us, the words "to their sole use and behoof forever, and we do covenant with the said company, their successors and assigns," having been first interlined.

RICHARD FLETCHER.

Policy of Insurance brig Sarah Ann.

By the New England Marine Insurance Company.

No. 12,874,

This policy of insurance witnesseth, That the President and Directors of the New England Marine Insurance Company do by these presents cause to be assured, lost or not lost, Thos. Curtis, for Crosby and Dudley of Hampden, or whom it concerns, payable to Thos. Curtis in case of loss, four thousand dollars on the brig Sarah Ann, in port or at sea, during the term of one year from

Form of policies adopted by all the insurance offices in Boston, Sept. 1, 1823.

February 22d 1828, at noon, to February 22d 1829, at noon, whereof is master for this present voyage, Phillips, or whosoever else shall be master in the said vessel, or by whatsoever other name or names the said vessel, or master thereof, is or shall be named or called; beginning the adventure upon the said vessel as aforesaid, and to continue as aforesaid. And it shall be lawful for the said vessel in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accidents, without prejudice to this assurance. Touching the adventures and perils which the said Insurance Company are contented to bear and take upon them in this voyage, they are of the seas, fire, enemies, pirates, assailing thieves, restraints and detainments of all kings, princes or people, of what nation or quality soever, barratry of the master, (unless the assured be owner of the vessel,) and of mariners and all other losses and misfortunes which have or shall come to the damage of the said vessel, or any part thereof, to which assurers are liable by the rules and customs of assurance in Boston, provided that the assurers shall not be liable for any partial loss on sugar, flaxseed, bread, tobacco and rice, unless the loss amount to seven per cent. on the whole aggregate value of such articles; nor for any partial loss on salt, grain, hemp, flax, fish, fruit, hides, skins, or other goods that are esteemed perishable in their own nature, unless it amount to seven per cent. on the whole aggregate value of such articles, and happen by stranding; nor for any partial loss on other goods, or on the vessel, or freight, unless it amount to five per cent. exclusive in each case of all charges and expenses incurred for the purpose of ascertaining and proving the loss; but the owners of such goods shall recover on a general average. And in case of any loss or misfortune, it shall be lawful for the assured, his factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said vessel, or any part thereof, without prejudice to this assurance, to the charges whereof the said Insurance Company will contribute, in proportion as the sum assured is to the whole sum at risk. And so the President and Directors aforesaid, are contented and do hereby bind the capital stock and other common property of the said Insurance Company, to the assured, his executors, administrators and assigns, for the true performance of the premises, confessing themselves paid the consideration due unto them for this assurance, by the assured, at and after the rate of eight per cent., to pay in addition two per cent. in case she should be south of latitute 22° between 1st August and 1st November. And it is hereby agreed, that if the assured shall have made any other assurance upon the vessel aforesaid, prior in date to this policy, then the said Insurance Company shall be answerable only for so much as the amount of such prior assurance may be deficient towards fully covering the property at risk, whether for the whole voyage, or from one port of lading or discharge to another; and the said Insurance Company shall return the premium, or a ratable part thereof, upon so much of the sum by them assured, or for such part of the voyage as they shall be exonerated from by such prior insurance, excepting half per cent., which shall be returned in all cases of return premium; provided, that no return premium shall be made for any passage, whereon the risk has once commenced. And in case of any assurance upon the said vessel, whether it be for the whole or part of the voyage, subsequent in date to this policy, the said Insurance

Sum insured $4000.

Vessel valued at not including prem. $4000.

Company shall nevertheless be answerable, to the full extent of the sum by them herein assured, without right to claim contribution from such subsequent assurers; and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent assurance had been made.

Premium,	$320
Policy,	100
	$321

And in case of loss, the assured is to abate one per centum; and such loss shall be paid in sixty days after proof and adjustment thereof, the amount of the premium note if unpaid, and all sums due to the company, from the assured when such loss becomes due, being first deducted, and all sums coming due being first paid or secured to the satisfaction of the said President and Directors, they discounting interest for anticipating payment. It is also agreed, that in case of capture or detention, the assured shall not have the right to abandon therefor, until proof is exhibited of condemnation, or of the continuance of the detention (by capture or other arrest), for at least ninety days; and that the insured shall not abandon in consequence of the port of destination being blockaded, but the vessel shall in such case, have liberty to proceed to another port not blockaded, and there end the voyage, or wait a reasonable time for the blockade of the original port of destination to be raised; and that the acts of the assured or assurers in recovering, saving and preserving the property insured in case of disaster, shall not be considered a waiver or acceptance of an abandonment. It is also agreed, that the assurers shall not be answerable for any charge, damage or loss which may arise in consequence of seizure or detention for, or on account of, illicit or prohibited trade, or trade in articles contraband of war; but the judgment of a foreign consular or colonial court shall not be conclusive upon the parties, as to the fact of there having been articles contraband of war on board, or as to the fact of an attempt to trade in violation of the laws of nations. It is also agreed, that this policy shall be void in case of its being assigned, transferred or pledged, without the previous consent in writing of the assurers. It is also agreed, that the assured shall not have the right to abandon the vessel for the amount of damage merely, unless the amount which the assurers would be liable to pay under an adjustment as of a partial loss, shall exceed half the amount insured; and in case of a totol loss of the vessel with salvage, the amount allowed out of the salvage to the officers and crew, for wages earned, or services rendered previous to the loss, shall be considered as so much of the salvage applied to the use of the ship owners, even although the same should be allowed or paid under the name of salvage, and not as wages, and shall accordingly be deducted in adjusting the loss. It is further agreed, that if any dispute shall arise, relating to a loss on this policy, it shall be submitted to the judgment and determination of arbitrators mutually chosen, whose award in writing shall be conclusive and binding on all parties. In witness whereof, the President of the said Insurance Company, hath hereunto subscribed his name, and caused the same to be countersigned by their secretary, at their office in Boston, this first day of March, one thousand eight hundred and twenty-eight.

JAMES HALL, President.

JOHN WATERS, Secretary.

BOSTON, October 4, 1828.

Received the Note given for the premium due on the within policy, and twenty-seven hundred dollars in full satisfaction of all claims and demands

whatsoever under the said policy, and I do therefore hereby cancel and discharge the same.

THOMAS CURTIS.

And also at this term the following deposition of Atkins Adams, taken on behalf of the said libellants, was filed in court, and is as follows:

Deposition of Atkins Adams.

UNITED STATES OF AMERICA,
District of Massachusetts.

Deposition of Atkins Adams, taken at the request of the plaintiffs, and to be used in the following action, viz: New England Insurance Company, libellants and appellants vs. Obadiah Woodbury et als. respondents and appellees, now pending in the circuit court for this district.

I, Atkins Adams, of Fairhaven, in the county of Bristol, master mariner, of lawful age to give testimony, having been duly examined, cautioned and sworn, do testify, depose and say:—Mr. James Hall, President of the New England Insurance Company, requested me to visit Nantucket to ascertain where the brig Sarah Ann was, which he understood had been stranded on Nantucket and afterwards got off, and was then in the harbor. I went there, and applied to one Philip H. Folger and another man, who were the purchasers of the brig after she was stranded, and asked them to render all the bills he had for services and expenses in getting the brig from the beach, and I was willing to pay all reasonable demands and take the brig and send her to Boston. Mr. Folger was the one with whom I dealt principally on this subject. His reply was that the brig was his; that he had purchased her at auction, and I understood him to say he had a bill of sale of her signed by the wreck master and the master of the vessel. I am sure he said it was all done by the wreck master's orders, and that the master of the brig had approved of it. He would not listen to any proposition which I made him, of paying for getting the brig off, and taking her into my possession. I was urgent in trying to bring the thing to a compromise, and pay all the claims for getting the brig off, and taking her into my own hands. The only reply I could get from Mr. Folger was, that he considered himself the lawful owner of the brig, and would sell her for five thousand dollars. I asked of him to permit me to have a survey, to ascertain the damages she had undergone, and the expenses of her repairs. He consented, and I had a survey; and the paper annexed marked A, is the report thereof. I then endeavored to ascertain all the expenses that had accrued in getting the brig off and into the harbor. I could not get them exactly. The bills rendered me in on this account appeared to me swelled and imaginary, and got up to increase the amount. (Mr. Curtis, counsel for respondents, objects to the latter part of the above statement.) I understood many who labored in getting her off, and for whom charges were made, were not paid any thing. (Mr. Curtis objects to the above.) The bills rendered in amounted to over $2000. The memorandum of them marked D, is annexed. In answer to questions asked by Samuel Hubbard, Esq., counsel for libellants: I found the brig alongside of the wharf in the harbor of Nantucket, all rigged and ready to take in a cargo and proceed to sea. The sails were not bent. The rigging was her old rigging, with the exception of a small part of her running rigging,—such as a few lanyards and the like. The rigging, both standing and

running, appeared to be in good order, and sufficient for a voyage. The sails I did not see; at least I do not now recollect seeing them; but Mr. Folger told me he had them in safe keeping. Her hull was in good condition; it was such as it would appear to be from the survey. From all I could learn, she was got off easily, and brought into the harbor the same day they made the effort to get her off. The papers annexed marked B and C are inventories which I made with the assistance of Mr Myrick, the wreck master. Mr. Folger was with us, and assisted in making the inventories. I met, on the Island, a Mr. Crosby, who was the owner of the brig, and who was with me and joined me in my interviews with Mr. Folger and my requests to him. I went out within half a mile of the spot where the brig was cast away, and saw the place distinctly; and the coast all along there was of the same character, and should think there would be no difficulty in getting off such a brig as the Sarah Ann, and which had sustained no greater injury. I was a shipmaster in 1803, and have been acquainted with maritime matters ever since.

In answer to cross interrogatores by Charles P. Curtis, Esq., deponent says: Mr. Pease, one of the surveyors, was a ship carpenter, and went with me from Fairhaven. I suggested Mr. Coffin to Mr. Folger, who said he was a good man, and then we wanted a carpenter, and Mr. Pease suggested the name of Mr. Hodges, and Mr. Folger acquiesced. I did not understand that this was a joint survey on Mr. Folger's account as well as ours. Crosby and myself had the survey, and I only mean that Mr. Folger acquiesced in the surveyors being suitable men. I was never on Nantucket before or since, and I was there but a week. This was from the 18th to the 26th April, 1828. Upon further interrogatories put by Mr. Hubbard, deponent says: Mr. Folger said he had a bill of sale from the wreck-master, and this was enough for him; we had a great deal of conversation on this point. The materials which were sold on the beach, after they had been saved from the vessel,—connected with the vessel as her rigging and appurtenances, would be worth, I should think, from thirteen to fifteen hundred dollars. If separated from the vessel and brought to Boston, and sold there for such uses as they might be applied to, I should think they would have brought from eight hundred to a thousand. In regard to the sails, my impression now is, that I did see them; but, however this may be, I made particular enquiries and received particular information of Mr. Folger, of the wreck-master, and of the captain of the brig, in regard to the state and condition and value of the sails, as well as of all the materials. The memorandum of sails, marked C, hereto annexed is labelled on the back in my own handwriting; it was received by me at the time from the wreck-master, or Mr. Folger.

Mr. Folger and the wreck-master both told me that the brig was hauled from the beach into deep water, by means of an anchor and chain cable belonging to the brig, which had not been sold at the time the other materials were sold; and after the vessel was hauled off, they slipped the cable and instructed some boatmen to get it and bring it into the harbor, but they said it had never been brought in. I told them I supposed they were accountable for it, as they had used it; and the wreck-master said he would get it on the first opportunity, and would account for it with the owners or underwriters. I am not sure that I told them I considered them accountable for the anchor and chain; but there was a good deal of conversation about

this anchor and chain; and I think I have above given the substance of it correctly.

ATKINS ADAMS.

District of Massachusetts, Boston, May 30th, 1835. Then the above named Atkins Adams, being duly examined, cautioned and sworn according to law, made the foregoing deposition before me. Both parties in the action wherein it is to be used, agreeing to waive the want of a commission, and all informalities of return or otherwise; Mr. Curtis however expressly reserving all rights of exception or objection to the admission of the testimony, and especially objecting to the testimony of said Adams so far as it is founded upon or refers to the declarations or statements of P. H. Folger or any other person whomsoever.

Fees, $7

THEOPHILUS PARSONS, Comm'r, &c.

A statement of bills which we calculated will be necessary to put the hull of the Sarah Ann in as good order as she was previous to her having been stranded on the south side of Nantucket.

Caulker's bill - - - - -	$147
Boards, nails, paper, &c. - - - -	68 25
Painter's bill - - - - -	100
Labor - - - - - -	75
Rigger's expenses heaving out - - -	20
Repairing waist-boards - - - -	12
Iron in the bottom - - - - -	30
Timber and labor for a shoe on the keel - -	20
Stage hire, wharfage, Cartage, &. &c. - -	20
	$492 25

ABNER PEASE.
ARIEL COFFIN.
ISAAC HODGES.

Nantucket, April 19th, 1828.

B.

Inventory of the brig Sarah Ann, as she now lies in Nantucket harbor.

1 Set of spars complete, except jib-boom.

1 Set standing rigging—complete.

Sails. 1 spenser, 1 fore-sail, 1 foretop-sail, 1 foretopmast stay-sail, 1 jib, 1 main-sail, 1 main top-sail, 1 main top gallant-sail, 1 try-sail, 1 top m. s. sail, 1 lower studding-sail, 2 royals.

1 Longboat (stove), 1 set pump gear and 1 spare box, 1 camboose, cabin table; about $40 worth running rigging.

N. B. One bower anchor and kedge are now lying on the wharf, but not belonging to the brig.

Nantucket, April 20th, 1828.

110.

C.

Inventory of materials belonging to brig Sarah Ann when she was stranded on the south side of Nantucket.

2 Bower anchors, 1 kedge ditto, 1 chain cable, upwards of 70 fathoms, about one inch wire; 1 hemp ditto, 10 inch about 60 fathoms, 1 halser about 70 fathoms, 1 set of spars complete, excepting jib-boom, 1 spare top-mast, 1 set standing rigging, 1 ditto running do , 1 suit sails (18 sails,) 1 long-boat, 1 yawl, 2 compasses, 1 hand line, 1 deep sea line, 1 log line, 1 cook's axe, 1 hatchet, 1 tool chest and sundry tools, 1 cabin table, 2 chairs, 1 deep sea lead, 1 hand ditto, 1 crowbar, 1 set pump gear, (1 spare box) 1 camboose, handspikes, oars, cooking utensils, colors.

D.

Memorandum of expenses attending the brig Sarah Ann in consequence of having been on shore on the south side of the island of Nantucket.

40 Men 5 days each at $3	$600
Captain	20
Pilot	20
Mr. O. Gardner for his advice in giving directions	10
Vessel to attend	30
Insurance on ditto	30
Obtaining anchors after the brig was off	25
Damage to winding tackle, falls cordage cables, use of anchors, &c.	200
Boat (lost)	10
Outfits of provisions, &c.	150
Carting materials to the wreck	10
4 Purchasers of the brig, P. H. Folger, V. Hussey, F. F. Hussey, S. B. Folger, for their attendance five days each at $5 per day	100
	$1205
Expenses to put the brig in readiness for sea, after she arrived in Nantucket harbor, exclusive of ground tackling and boats :	
Cordage for running rigging and lower lanyards	255
Rigger's bill	40
Block-maker's ditto	18
One spar for jib-boom	5
Blacksmith	35
Storage	5
Hawse lead	5
Dockage	21
Truckage	15
Agent for attending to the repairs	25
Damage accrued to the sails in taking them on shore from the wreck, and in bringing her into this harbor	20
Damage to the hull as per report of survey	492
Expenditures	$2141

Mem. Sundry articles consumed in discharging cargo.

Rigging - - - -	75 00
Damage to bulwark for benefit of cargo -	12 00

And also at this present term, by consent of parties the following depositions were put into the case by the libellants.

Shubael Worth's Deposition.

I, Shubael Worth, of Nantucket, in the Commonwealth of Massachusetts, master mariner, of thirty years of age, and upwards, having been duly examined, cautioned, and sworn; do depose, testify, and say: In March, 1828, I was in Nantucket, and one Sunday morning in that month, I think the twenty-eighth day, I heard by common report, that the brig Sarah Ann was on shore, on the southwest of the Island, abreast, or opposite the head of the Hammock. I was then in the town of Nantucket. I thereupon repaired to the beach where the brig was said to be, and arrived there about nine o'clock. Captain George Myrick, senior, acting as wreck master, took down my name, with that of others, who volunteered to go on board the vessel and assist in getting her off. I went on board. I found the vessel lying head on to the shore, in the breakers, on the shore. We commenced in getting her anchors out astern of her; both anchors, one hemp, and one chain cable, with the assistance of a smack sloop, belonging to Captain Myrick, the name of which I don't recollect. Then we got out a wind tackle purchase, and made it fast to the hemp cable; the purchase consisted of two blocks of two sheaves each, through which was rove a four or five inch rope. We took this purchase to the windlass, and hove upon it; we hove upon both anchors, upon one by the wind purchase, and on the other by the cable, and we could not start the vessel any. We hove half an hour, or thereabouts, with as many men as could conveniently heave at the windlass. We then began to heave overboard the deck load of planks, which landed on the beach; then we tried heaving on our purchases again; we did not succeed in moving the vessel any whatever. The tide was up about the time we began; and I presume it ebbed away from her about as fast as we lightened her. After thus heaving on this purchase in vain, we found we could do nothing else than load the smack sloop before spoken of, from her hold. We took out, say twenty-five packages of shrub, and rice; this was as much as the smack sloop could take, being very small; then, having thus loaded the smack, we abandoned the brig and went on shore, I believe between sundown and dark; I mean all who were hired to assist, left the brig; leaving on board the brig's crew, excepting a colored man, who was sick, and was landed at the same time I was. This was all we did that day. This was Sunday, and on Sunday night, a gale came on from the southwards, say the southeast. Had it not been for this gale, it it my opinion, that the vessel had been so much lightened during the day, that the next high water, which was about midnight, would have lifted her up, so that the purchase we had rigged, would have pulled her off into deep water. The gale continued through Sunday night and did not abate till Monday afternoon. I did not see the vessel from Sunday night till Tuesday morning, except from a distance; the gale blew so hard, there was nothing to be done. On Tuesday morning we went on board her, we found her further up on shore, say her length further up; by watching our chance when the

under tow went away from her, we could get on board at her larboard fore-chains, dry. Then we commenced stripping her to her lower masts, and made a staging of her spars and planks. We left her lower rigging standing. We began discharging the cargo from her larboard bow, first on the staging: thence to the beach; and then carted it away. When I left her Tuesday night, her head was on shore; but when I found her Wednesday morning, the sea had moved her so that she lay more along shore. We then rigged or built a staging, one end on shore, one end resting on her plank sheer, abreast her main hatchway By means of this staging we discharged her cargo, all that day, and on Wednesday night I watched the vessel and cargo, to see if she made any water, and she did not that I could perceive. During the night, at high water, I discovered that the brig had moved six or seven feet to the westward along shore; this I ascertained by her staging being in a different direction and place. This was on Wednesday night, and on Thursday morning we commenced discharging the remainder of her cargo, which we finished about noon, and then we took off her lower rigging, and stripped her to her girdling. We used up the rest of the day in arranging the running rigging, sails, &c., in lots to be sold (as I understood the next day. I understood it was sold, but did not attend the sale. I left the brig on Thursday night, and did not see her again till she arrived at the old north wharf in Nantucket the beginning of the next week; the day I do not particularly recollect.

In reply to questions put by Samuel Hubbard, Esq. for the plaintiffs (not particularly stated here, by agreement between the parties,) the deponent states further: When I last left the vessel on Thursday evening, the vessel lay nearly parallel with the shore; her head to the eastward; the water washing round her on the inside as well as the outside, and she was in considerable motion. At this time I think the tide must have been a little on the ebb. In the harbor the tide is supposed to rise about six feet; I don't know the height of it on the beach. The sand was not washed away except at the stern, where the undertow had cut it away as the water washed round her. In my opinion, the sand being thus cut away, was an advantage in getting her off. I never knew of an attempt to get her off after we lightened her, and never heard a word of the kind from any body. I was the last person that left the vessel on Thursday, no one remaining on board. I was busy in helping to arrange the rigging, and left the shore in the last carriage with Capt. Myrick, and had there been any attempt to get the vessel off, after we lightened her, I must have known it. I think it would have been necessary to have got a sloop round from Nantucket, and this could have been done without much difficulty, and the necessary materials might have been procured with ease. There are always men enough to be had there for wages. Supposing the weather to have been good, it is my opinion that with the men and materials which might have been procured, the vessel might have been got off. The weather was in fact good, as we should call it, from Monday after the gale abated until she arrived in Nantucket. There might have been a breeze or so, but no storms. In my judgment the time necessary to get her off, or to do all that could be done whether successful or not, would not have exceeded two days. How many men would have been required I cannot exactly say, but I should think thirty would have been sufficient, certainly. The fair wages for men, at that time for that work, was from nine shillings to two dollars a day, each, and food. I had two dollars. I was consulted by no person as to getting her off after

she was unloaded, and there was no consultation about it whatever, that I know of. She delivered her cargo in good order excepting a few casks of rice in the lower tier, which were somewhat wet in consequence of her heeling over on her side. Her rigging and sails were wholly undamaged, save that the throat seizings of the forerigging were cut, because we could not get the forecap off; which made new seizings necessary. Her lanyards, generally, were cut, because being stiff, it was thought they would take too much time in taking them off. I never pumped the vessel during my watch, and could not perceive that she made any water. I thought it was a good plan to take down her top hamper and send it ashore; but her lower rigging, I think, might have been as well let alone. Had I been master of the brig, I think I should not have undertaken to have made a further attempt to get her off without consulting with the wreck-master, or some one who acted in his place; or some suitable or proper person. If the brig had been my own property I am sure I should not have sold her, without another attempt to get her off.

Questions by Samuel Hubbard, Esq. counsel for plaintiffs.

1. As master of the vessel, having consulted with the wreck-master or others, whether or no should you feel yourself bound at all events to follow his or their directions, or should you consider it your duty to act upon your own judgment and responsibility; giving such weight to the advice as you might think it deserved?

Answer. Having consulted with the wreck-master, if his directions or advice were such as I disapproved, I should act upon my own judgment and responsibility, unless he satisfied me of his authority to bind me.

2. You having stated that you saw the brig Sarah Ann on shore repeatedly until she was sold; is it then your opinion, taking into view all the circumstances, that an attempt ought or ought not to have been made after she was lightened, to get her off before she was sold?

Answer. I think there ought to have been an attempt made after she was lightened.

3. Please describe the beach where the brig Sarah Ann was on shore.

Answer. It was a sandy beach, and I have no knowledge of any rocks being near her. It was not hard, but pretty soft sand.

4. How far do you think the brig must have been hauled before she would float freely?

Answer. She would have to be hauled to keep her from striking the breakers, I should think twice her length; it might be less, but I should think that was the extent. After she was once started, the further she went the easier she would haul of course. I suppose fifty feet would deepen about five feet.

Cross-interrogatories proposed by C. P. Curtis Esq., counsel for the defendants.

1. How far is it by sea from the place where the vessel lay to the harbor of Nantucket?

Answer. I should not think it more than 12 miles by sea, and about 6 by land.

2. Was it not open to the reach of the Atlantic Ocean where she lay?

Answer. Yes, sir.

3. When did the crew leave her?

Answer. I think some of the crew left her on Tuesday night; but the mate did not leave her till she was discharged and stript.

4. Who advised with the master besides Captain Myrick sen.?

Answer. I don't know that any one did.

5. Was the Captain of the vessel afflicted at that time with rheumatism?

Answer. He told me that he was.

6. Was there not great risk at the time you left the vessel the last time, that the wind might spring up, and if it had sprung up and blown hard, would not the vessel have been likely to go to pieces, or to be much injured?

Answer. I don't think there was much likelihood of a gale; it is not common for two gales to follow so closely together, and she had had one. But if there had been a gale from south-east to south-west, there would have been danger of the brig's going to pieces.

8. What in your opinion was the value of the brig as she lay on the beach after her cargo was out; considering the risk of bad weather at that season of the year, and the expense and hazard of getting her off?

Answer. I would rather not say. It would have taken some time to have made an estimate, and I never made one. I gave up working at one time and took hold again, because they could not get men, and came to my house and insisted on my working.

10. If you had been in Captain Phillips' place precisely, should you not have acted as he did?

Answer. It is very hard to tell. It is very hard to judge of one's feelings. I do not know that he returned to the vessel after he left her on the Monday after she went on shore. I never saw him there after he so left her. I think if I had been master, I should have returned to the vessel and seen after her.

11. Was Captain George Myrick junior present, aiding and assisting Captain Myrick senior, in taking care of the brig and appurtenances?

Answer. Yes, sir; he was there all the time or thereabouts.

Additional question by S. Hubbard, Esq.

5. Please explain what you mean by the difficulty of getting men which you speak of in your answer to the 9th cross interrogatory?

Answer. I mean there was no want of men, but Captain Myrick saw fit to express peculiar confidence in me, and so urged me. He said he wanted a man with a head; Captain Myrick senior, told me his son, who was at the beach, had sent to him to procure and send him two men.

6. Was the mate active and capable, or otherwise?

Answer. I thought he was a remakably smart and capable man.

7. Whether or no the vessel was less likely to suffer from a gale by reason of being unloaded and lightened; and how great was the probability that she would have gone to pieces had there been a gale?

Answer. She was less likely to be hurt by a gale, because she lay higher up on shore, more out of the reach of the heaviest surge. I can't say what the probability was of her going to pieces in case of a gale; she was a remarkably stout vessel.

SHUBAEL WORTH.

District of Massachusetts, ss. Boston, October 28th, 1831. On this twenty-eighth day of October, in the year one thousand eight hundred and

thirty-one, personally appeared Shubael Worth, the within named deponent, before me the subscriber, and being by me duly examined, cautioned and sworn according to law, to testify the truth, the whole truth and nothing but the truth, he made oath to the deposition above written, and subscribed the several sheets thereof in my presence; the said deposition having first been reduced to writing by me in his presence. This deposition is taken at the request of the plaintiffs, to be used in a cause now pending in the circuit court of the United States for this district, between John Crosby et alii plaintiffs, and Philip H. Folger et alias defendants. Charles P. Curtis Esq. counsel for the defendants, was duly notified and was present at the taking thereof. The said deponent's purpose of going to sea was the cause of taking this deposition. I am not of counsel nor attorney to either of the parties, nor interest in the event of the said cause.

Fees for notice and caption, $10.

[SEAL.] THEOPHILUS PARSONS,
Justice of Peace and Com'r.

Depositions of C. Bunker & als. 4 depositions.

UNITED STATES OF AMERICA,
Massachusetts District, ss.

The circuit court of the United States, within and for the Massachusetts [L. S.] district.

To Martin T. Morton, of Nantucket, in the district of Massachusetts, Esquire: Know ye, that reposing confidence in your wisdom, prudence and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed, of Ariel Coffin, Isaac Hodges, Benjamin Gardner fourth, and sueh other witnesses as shall be brought before you by the plaintiffs, to be used in a certain cause now pending in said court, wherein John Crosby junior, Elias Dudley and Reuben H. Stetson are plaintiffs, and Philip H. Folger, Samuel B. Folger, Valentine Hussey and Francis F. Hussey are defendants. And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid, to be brought before you, and each witness while present before you to examine carefully on oath touching the premises. And when you shall have taken the examinations as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence; and the same so taken and subscribed to return, together with this commission and your doings herein enclosed, sealed and directed to the circuit court aforesaid, so soon as you shall have executed the same.

In testimony whereof we have caused the seal of the said circuit court to be hereunto affixed.

Witness the honorable John Marshall, at Boston, this fourth day of May, in the year of our Lord one thousand eight hundred and thirty-two.

JOHN W. DAVIS, Clerk.

In pursuance of this commission, I have put the interrogatories thereto annexed to all the witnesses produced before me on the part of the plaintiffs in this cause, and have caused their answers to be reduced to writing in my presence, and now enclose them with the commission, directed to the Honorable Court.

MARTIN T MORTON.

Nantucket, May 12th, 1832.

JOHN CROSBY, Junior, et al.
vs.
PHILIP H. FOLGER et al.

Interrogatories to Ariel Coffin, Isaac Hodges, Benjamin Gardner, 4th—to the persons who worked on the brig Sarah Ann, in attempting to get her off in March 1828, and to such other witnesses as may be produced on the part and behalf of the plaintiffs.

1. Do you know the parties, and either, and which of them, and how long have you known them respectively?

2. Do you know at what time the brig Sarah Ann was wrecked on the Island of Nantucket?

3. Did or did not the said vessel receive any damage by running on shore? If so, please to state particularly the nature and the extent of the damage.

4. Was there any estimate of damages made by any person or persons of the injury sustained by the vessel on being run ashore? If so, state by whom such estimate was made; in what manner it was made, and by whose request; and please to state whether such estimate was a fair one or not?

5. By whom and under whose direction was the said vessel got off from the shore? Describe the manner in which she was got off.

6. If you know what it cost to get her off, please to state the amount. But if you do not know the amount, please to state what is a fair charge per day of the hire of men fit to be employed in getting a vessel from the shore. What is a fair charge for the use of materials?

7. Did the vessel leak while she was on shore or not? Please to state the truth herein.

8. Please to describe the shore on which the vessel was wrecked, and on what part of the island it was?

9. Please to describe with as much accuracy as you are able, the state of the weather, and what were the directions of the wind from the time the brig run on shore until Monday noon, and from thence until she was sold, and thence till she was in Nantucket harbor?

10. What attempts were made to get the said vessel off before she was sold? Please to describe each attempt and the day when it was made, with as much accuracy and particularity as you can.

11. In what position was the vessel lying the morning after she went on shore, and how near to the shore did she lie? And what attempt was made at this time, and by whom to get her off? Had you or not a smack sloop in company assisting at the time? If so, who commanded? What was her size and number of men?

12. Who were the persons that remained on board the brig, after the first day's labor? Please to state their names.

13. What was the next time you went on board the brig; how was her situation then, as she lay on the shore, and what labor was there done on board the vessel?

14. On what day or days was the cargo taken out of the vessel, and what was done with the cargo: did it remain on the beach, or was it carted away? And if so, where was it taken to, and by whom?

15. Were the sails and rigging taken off the vessel? If so, on what day or days, and what was done with them? Were they carted to the town, or did they remain on the beach?

16. On what day did the Captain leave the vessel, and did he return or not? If he did not return, where did he stay on the island?

17. Was there or not on Wednesday afternoon or evening any attempt made to get the vessel off? If so, please to describe the attempt; in what manner it was conducted; how many hands were employed in it; and for how long a space of time.

18. What was the state of the weather on Wednesday and Thursday, the 26th and 27th of March? Describe it during those days with as much accuracy as you can.

19. On what day was the vessel sold; when were the preparations made to get her off; on what day was she actually gotten off; and how long after was it, that she arrived in Nantucket harbor?

20. How many men were in fact employed in getting her off, and for how long a time? State accurately; and if you know their names, please to state them. Did any of them volunteer their services, or were they all engaged by the job; and what are the fair wages for laboring men in Nantucket?

21. In what order was the cargo of said vessel delivered, and what was the condition of her sails and rigging? Please to state with accuracy.

22. Were the cables and anchors of the vessel used, when the vessel was got off? If not, what were used in their place? State the facts in these respects; and state where the cables and anchors of said vessel now are.

23. Was the vessel at any time high and dry on the beach? What was the depth of water about her at the time she was sold?

24. Is there any person at Nantucket who kept a diary of the weather during the months of March and April 1828? If so, what is the entry of the weather on his Journal from the 21st day of March to the 10th day of April inclusive? He is requested to annex a true copy of the same, and state the manner in which it is kept by him, and how far it may be relied upon as accurate.

25. Could or could not the vessel have been secured by an anchor or anchors on the beach high up with suitable cables, or in some other and what manner, so that notice of the stranding might have been sent to Boston without any just cause of apprehension that she would float off and go to sea, or thump to pieces? State in your answer with as much accuracy as the case admits of.

26. Was the vessel sold at the risk of the purchasers or not; state all the terms and conditions of the several sales as far as you know them; were there any written instructions on the subject, or any written contract or contracts? If so, please to annex them, or true copies thereof.

27. Do you know, or can you state, any other matter or thing beneficial to the plaintiffs in this case? If so, please to state them as fully and at large as if you were specially inquired of as to every particular.

SAMUEL HUBBARD,
Of Counsel for Plaintiffs.

Interrogatories proposed to Charles Bunker, esquire, a witness called on behalf of the plaintiffs.

1. Did you or not at the request of the plaintiffs in this suit, call on the defendants, Messrs. P. H. Folger, V. Hussey, F. F. Hussey, and S. B. Folger, and demand of them a delivery of the brig Sarah Ann, and her ap-

purtenances, or in lieu thereof to pay you the just value thereof? If yea, at what time was this, and was it prior to the service of the plaintiffs' writ upon them?

2. Did they or not acknowledge the demand, and refuse to deliver the said vessel to you, or to account for the value thereof? Please to state the facts in answer to this inquiry.

3. Were you knowing to the said vessel's being on shore on the Island of Nantucket in the month of March 1828? If so, please to state any facts beneficial to the plaintiffs which are within your knowledge in the same manner as though you were particularly inquired of respecting them.

SAMUEL HUBBARD,
Of Counsel for Plaintiffs.

JOHN CROSBY et al.
vs.
PHILLIP H. FOLGER, et als.

Cross-interrogatories to be put to such persons as shall be examined as witnesses under the commission annexed in behalf of the plaintiffs; the defendants objecting however to the deposition of any person being taken whose name is not mentioned in the title to the interrogatories.

1st. Do you remember the brig Sarah Ann being ashore on the Island of Nantucket in the month of March, 1828? Did you see her on the shore? When did you first see the brig? How many times and on what days? and on what days did you see her on the shore? Did you work upon her? What work did you do? By whom were you employed?

2nd. What was the situation of the brig on the shore; and what efforts, if any, were made by the master, officers, or crew, to get her off? State very particularly all that was done by them, or by any person or persons employed by the master or officers of the brig. Whether or not were the efforts they made judicious and proper?

3d. Is not the place where the brig went ashore much exposed to the influence and action of the wind and sea? and are not storms and severe weather frequent at Nantucket in the spring of the year? Are not the storms and gales violent at that season of the year? Was there not a storm after the brig Sarah Ann had been driven on shore, as before stated, and at what time did it commence, how long did it last, and when did it subside? During said storm did you go on board the brig, or did you go down to the shore near enough to see her situation?

4th. Whether or not were the brig and her tackle and apparel sold at Nantucket by order of the master? Where was such sale made? Was it a sale by auction? Was there much company present at the auction, and in what manner was the auction advertised or published, and conducted? Did you attend the sale? Did you bid upon or purchase any thing at the said sale; and what did you bid upon or purchase? And what did you do with your purchase?

5th. In the situation in which the brig lay at the time of her being sold, what, in your opinion, was the real value of her, taking into consideration the risk of her being broken up, or injured by a storm at that season of the year, and the expenses and hazard of getting her off?

6th. Whether or not was it, in your opinion, judicious and prudent in the master of the brig Sarah Ann to make sale of her and her equipments in

the manner he did, taking into consideration the *situation* in which the vessel lay, the *season of the year*, the *exposure* to injury from storms and gales of wind, and the *chances*, and *difficulties*, and *expenses* of getting her off and repairing and refitting her? Please to give the court and jury your best judgment and opinion hereon.

7th. What proportion of all the vessels that have been stranded at Nantucket, during the last twenty years, have been gotten off and saved?

8th. Do you know any other matters or things which are useful or beneficial to the defendants? If yea, please to state them as fully as if specially interrogated.

C. P. CURTIS,
Attorney for the defendants.

A true copy of the interrogatories.
Attest,
JOHN W. DAVIS,
Clerk of Mass. District Court.

1. Answer to the first interrogatory specially proposed to Charles Bunker.

At the request of Mr. Hubbard, counsel for the plaintiffs, contained in his letter to me of September 24th, 1823, I did call on Messrs. Folgers and Husseys, the defendants in this suit, and demanded of them a delivery of the brig Sarah Ann and her appurtenances, or payment in lieu of said delivery. This was on the 28th day of September, 1828, prior to the service of the plaintiffs' writ.

2. The demand, as such, was admitted, and the defendants refused to deliver the vessel and equipments, or to pay the value therefor.

3. I was on the beach on the day in which the Sarah Ann was sold, and saw the brig. She was lying at an angle of forty-five degrees to the shore, headed towards the shore, and rolled considerably.

1. Answer to the first cross-interrogatory, proposed by the defendants' counsel. I remember the brig Sarah Ann being ashore on the Island in the month of March, 1828. I saw her on the shore the first time, being in the forenoon of the day on which she was sold. I was not there at any other time.

2. I have mentioned the situation of the brig in my answer to plaintiffs' 3d direct interrogatory. I know nothing relative to the efforts which were made to get her off.

3. The place where the brig went ashore is much exposed to the influence and action of the wind and sea. The weather at Nantucket is similar to that in other places of the same latitude on the continent. I do not know in regard to any storm after the wrecking of the Sarah Ann. The remainder of the interrogatory is answered above.

4. I do not know by whose order the brig, tackle, &c. were sold; the sale was made on the beach in the vicinity of the vessel; it was a sale by auction, and there was much company present. I attended the sale, and was one of a company that bought the brig. I subsequently sold my interest to Matthew Mitchell.

5. I cannot judge as to the real value of the brig at the time of her being sold. I have never been conversant with such cases, and have no data upon which to found an opinion as to her value, except the price at the time of sale.

6. Besides the circumstances named in the 6th interrogatory, to wit: the *situation* of the vessel, the *season* of the year, the *exposure*, and the *chances*, and *difficulties*, and *expenses* of getting off and refitting her, I *ought* also *to know the condition* of the vessel as to soundness of her materials, and the degree of leak, if any. The degree of judgment and prudence manifested by the master in making a sale *would depend as much upon these points* and upon the season that might be *approaching* as upon the particulars specified in the interrogatory.

7. I cannot answer the 7th interrogatory.

8. I have no answer to make to the eighth interrogatory.

CHARLES BUNKER.

Nantucket, May 10th, 1832.

Deposition,	$5 00.
Deponent's fees,	58.
	$5 58.

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeared Charles Bunker before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined, and cautioned, and sworn in due form of law to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston within and for the Massachusetts district, on the fifteenth day of May, now current, wherein John Crosby jun'r, and others are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

JOHN CROSBY, Jun'r, and others,
vs.
PHILIP H. FOLGER, and others.

Answers of Ariel Coffin to interrogatories put to him on the part and behalf of the plaintiffs:

Answer to the 1st. I know Philip H. Folger, Valentine Hussey, Francis F. Hussey, and Samuel B. Folger; I have known them from their youth.

Answer to the 2d. I do not by any dates.

Answer to the 3d. She did receive damages; I cannot state particularly at this time the nature or extent of these damages.

Answer to the 4th. There was such an estimate; it was made by Abner Pease, Isaac Hodges, and myself. We were called on by Captain Atkins Adams to make a survey on the brig Sarah Ann, after having been got off and brought into the harbour, and laid at a wharf. I considered the estimate a fair one at the time it was made.

In answer to all the succeeding interrogatories put to him on the part of the plaintiffs, the deponent says, he has no knowledge on the subject.

Answers to cross-interrogatories.

1. I did not see the brig Sarah Ann on shore, nor until she came into the harbour.

In answer to the succeeding cross-interrogatories put to him, the deponent says, he is wholly ignorant of the subject matter enquired of.

ARIEL COFFIN.

Nantucket, May 11th, 1832.

Deposition	$2 50
Deponent's fee	0 58
	$3 08

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On the eleventh day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeared Ariel Coffin before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined, and cautioned, and sworn in due form of law to testify the whole truth, and nothing but the truth, relating to a certain cause now pending in the Circuit Court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the 15th day May now current, wherein John Crosby, junior, and others are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the foregoing answers to the interrogatories put to him, and subscribed the same in my presence.

M. T. MORTON, Jus. Pacis.

JOHN CROSBY, Junior, and others,
vs.
PHILIP H. FOLGER.

Answers of Isaac Hodges to interrogatories put to him on the part and behalf of the plaintiffs.

Answer to the 1st. I have known the Messrs. Folgers and Husseys for about ten years.

Answer to the 2d. I cannot recollect.

Answer to the 3d. She received some damage by getting on shore. I cannot state the particulars, or the amount.

Answer to the 4th. There was an estimate of damages made by Abner Pease, of New Bedford; Captain Ariel Coffin of this place, and myself. I cannot recollect the name of the person by whom we were called on, but he appeared here as agent to the underwriters. We went on board the brig lying at the wharf here, and appraised the damage, the different parts of the vessel and equipments separately had received. We made a report in writing, and delivered it to the agent.

Answer to the 5th. I do not know. I did not see the vessel on shore.

Answer to the 6th. I do not know what it cost to get her off. The fair charge of labor per day depends so much on the circumstances and situation in which the work is done; the prices would vary perhaps from $2 to 8 or 10 dollars per day, according to exposure, in the water or otherwise. I do not know what materials were used in getting the vessel off, and cannot say what would be a fair charge for them.

In answer to the succeeding interrogatories put to him by the plaintiffs, the deponent says: He is ignorant of all the facts.

In answer to the cross-interrogatories put to him, the deponent says: He never saw the Sarah Ann before she was brought into the harbor, and knows nothing of her situation on the shore, or what attempts were made to get her off, or any other facts relating to the case.

ISAAC HODGES.

Nantucket, May 11th, 1832.

Depositions	$2 50
Deponent's fee	58
	$3 08

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this eleventh day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Isaac Hodges before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined, and cautioned, and sworn in due form of law to testify the whole truth, and nothing but the truth, relating to a certain cause now pending in the circuit court of the Unites States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby, junior, and others are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

JOHN CROSBY, Junior, and others
vs.
PHILIP H. FOLGER and others.

Answers of Benjamin Gardner the 4th, to the interrogatories put to him on the part and behalf of the plaintiffs.

Answer to the 1st. I know Valentine Hussey, Francis F. Hussey, Philip H. Folger, and Samuel B. Folger, and have known them for many years. The plaintiffs I do not know.

Answer to the 2d. I do not know.

Answer to the 3d. I do not know that said vessel received any damage.

Answer to the 4th. I know nothing about it.

Answer to the 5th. I do not know.

Answer to the 6th. I do not know the expense of getting off the brig, nor what would be fair wages to men employed. I never employed men to get off a wreck.

Answer to the 7th. I don't know.

Answer to the 8th. Where the vessel lay was a sand beach. She was wrecked between the Hummock and Long Ponds (so called.)

Answer to the 9th. I cannot describe the variation of the winds or state of the weather from the time of her being wrecked till she was sold. After she was sold, I think the weather was pleasant, until she got into the harbor.

Answer to the 10th. I do not know.

Answer to the 11th. I do not know.
Answer to the 12th. I do not know.
Answer to the 13th. I have no recollection of being on board the brig while she lay on shore.
Answer to the 14th. I do not know.
Answer to the 15th. The sails and rigging were off the vessel, and were sold lying on the beach.
Answer to the 16th. I do not know.
Answer to the 17th. I do not know.
Answer to the 18th. I don't recollect.
Answer to the 19th. I don't know.
Answer to the 20th. I do not know. The common wages of men, laboring in town, is one dollar per day.
Answer to the 21st. I don't recollect.
Answer to the 22d. I don't know.
Answer to the 23d. I don't know.
Answer to the 24th. I do not know.
Answer to the 25th. I am not able to say.
Answer to the 26th. I know of no terms or conditions on which the vessel and appurtenances were sold.
Answer to the 27th. I recollect nothing further.

Answers to Cross Interrogatories.

Answer to the 1st. I remember the brig Sarah Ann being on shore, and saw her on the day she was sold. I do not recollect of seeing her on shore at any other time. I was not on board of her.
Answer to the 2d. I cannot describe the situation of the vessel on the shore, and know not what efforts were made to get her off, or by whom.
Answer to the 3d. The place is much exposed to the wind and sea. Storms are frequent. I do not remember whether there was a storm or not at that time.
Answer to the 4th. I do not know by whose order the brig and appurtenances were sold. They were sold at public auction on the beach near where the wreck was on shore. There was considerable company there. I was there, but purchased nothing.
Answer to the 5th. I am not competent to state her real value, but for myself would not have given fifty dollars for it.
Answer to the 6th. In my opinion, it was judicious and prudent in the master of the vessel to do as was done with the vessel and appurtenances.
Answer to the 7th. I don't know; but should think very small.
8th. I do not know.

BENJAMIN GARDNER 4th.

Nantucket, May 11th, 1832.

Deposition	$5 00
Deponent's fee	0 58
	$5 58

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this eleventh day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Benjamin Gardner 4th before

me, the subscriber, duly commissioned to act in the premises; and being by me carefully examined, and cautioned, and affirmed in due form of law, to testify the whole truth, and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby, junior, and others are plaintiffs, and Philip H. Folger and others are defendants, and maketh solemn affirmation to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Libellants *do not* put in the testimony of Benjamin Gardner; but the same is put in by the respondents.

Deposition of Abner Pease.

UNITED STATES, *Massachusetts District, ss.*

JOHN CROSBY, Junior, et al.
vs.
PHILIP H. FOLGER et al.
} Circuit Court, October Term, 1833.

Interrogatories to be proposed to Abner Pease, of Fairhaven, in the county of Bristol, ship-master, on the part and behalf of the plaintiffs.

Interrogatory 1st. Do you know the parties, or either of them; and how long have you known them respectively?

Interrogatory 2d. Did you or not at some time in the spring of the year eighteen hundred and twenty-eight, go on board and examine a brig called the Sarah Ann, of Hampden, in the State of Maine, but then being at Nantucket? If so, state the time when you was on board of her, and who accompanied you.

Interrogatory 3d. Had the said vessel lately been stranded or not on the said island? and if so, please to state the injury she had sustained in consequence of such stranding.

Interrogatory 4th. Did you examine the hull of said brig; her masts, spars, yards, standing rigging, and running rigging? if so, state the condition you found them in, and the amount of injury they had sustained in consequence of the stranding; and in what manner should you apportion the charges upon the hull and rigging.

Interrogatory 5th. Is the paper writing hereunto annexed an original paper signed by you and Ariel Coffin and Isaac Hodges? Examine the same, and state whether the facts therein stated are true. (Objected to.)

6th. Was or was not the said vessel a well and strong built vessel as to her frame and hull generally?

7th. How long, in your judgment, could she have remained on the beach without bilging, except in the case of a violent southerly blow? (Objected to.)

8th. Do you remember the course of the weather in the latter part of March, in the year 1828?

9th. Do you know any other matter or thing that can benefit the plaintiffs in this cause? if so, please to state the same as fully as though you had been particularly interrogated thereto.

The introduction of the paper writing referred to in interrogatory 5th, as evidence in this cause, is objected to by the defendants.

C. P. CURTIS, Attorney.

I consent that Charles H. Warren, esq., of New Bedford, may take the deposition of Abner Pease, of Fairhaven, to be used in the aforementioned cause. If Timothy E. Coffin, esq., is at New Bedford, reasonable notice is to be given to him to attend on behalf of the defendants, P. H. Folger et als. If he does not attend, the following cross interrogatories are to be put to the deponent.

C. P. CURTIS,
October 18, 1833. Att'y for Defendants.

1. Did you see said brig Sarah Ann while she was ashore on the south side of Nantucket?

2. Are you acquainted with the south shore of Nantucket? Is it a dangerous place for a vessel to be stranded upon? Is it not exposed to the reach of the sea?

3. Have you ever known vessels to be cast away on said south shore of Nantucket, and what number of vessels? How many of that number have you ever known to be got off in safety? State the names of those which you have known to be gotten off; and what was the expense of getting them off and repairing them—each one particularly.

4. In whose possession was the brig when you went on board of her at Nantucket? Was she then undergoing repairs, or has she been repaired?

5. If you state that you made an estimate of the damage to said brig by having gone ashore as aforesaid, state the items by which said estimate was made up.

6. If you know any other facts useful to Philip H. Folger and the other defendants, please to state them as fully as if you were particularly interrogated.

C. P. CURTIS, Att'y for deft's.

I, Abner Pease, of Fairhaven, in the commonwealth of Massachusetts, shipwright, testify and say in answer to the *first* interrogatory hereunto annexed: That I do not recollect that I ever saw either of said parties, though I think it very probable that I have.

To the *second* interrogatory: That I did go on board of, and examine said vessel, then lying at Nantucket in the spring of the year named in said interrogatory. I think in the month of April, Captain Ariel Coffin, and another person, whose name I do not recollect, accompanied me.

To the *third* interrogatory: That it was told us that she had before that been stranded on the south side of the island, and been gotten off. The vessel, when we saw her, was lying at the wharf, upright. We did not see her bottom. As far as we could ascertain, her keel shoeing had been knocked off, and some of her sheathing. This we derived from the information of others. Her sails and rigging I don't recollect much about. Her sails were off. I don't recollect but what the standing rigging was uninjured, excepting that she was obliged to have new lanyards. There was some injury to her top, in consequence of her being stranded I suppose, though I don't recollect exactly what:—something about the bulwarks and perhaps fife-rail or something like that. It was apparent that she was strained some in her

bilge, from what we could see on the inside, but we couldn't suppose any thing was out of its place, as she was tight. Her ceiling was started a little. We could perceive no other injury that I recollect, from an examination of the inside of the vessel. Her masts, bowsprit, the main part of her spars were uninjured. I recollect nothing about the running rigging—whether it was rove or not.

To the *fourth* interrogatory, I refer to my last answer as to the condition of the said vessel, her masts, spars, yards, standing rigging, and running rigging, as far as I recollect them. We estimated the damage the vessel had sustained at something short of five hundred dollars; but whether this included the damage done to the sails and rigging or not, I do not recollect, and therefore cannot apportion the charges. At any rate, the principal damage was to the hull.

To the *fifth* interrogatory: That the paper-writing hereunto annexed marked A, is an original paper signed by Ariel Coffin, Isaac Hodges, and myself, and that the facts therein stated are true.

To the *sixth* interrogatory: That we concluded she was, and I am now of that opinion. She was what we call a well built vessel.

To the *seventh* interrogatory: That for any thing I could see and now recollect she might, in my opinion, have laid there some days, but I cannot form any satisfactory opinion upon this subject. There is sometimes a tremendous sea at the place where she was stranded, when there is no wind.

To the *eighth* interrogatory: That I do not recollect any thing about it.

To the *ninth* interrogatory: That I recollect nothing farther than I have already stated.

Timothy E. Coffin, Esq. who attended the examination of the witness for and in behalf of the defendants, renewed the objection to the annexation of the paper referred to in the fifth interrogatory.

Question by the said Coffin, attorney to the defendants.

Did you see said brig Sarah Ann while she was ashore on the south side of Nantucket?

Answer. I did not.

Question by same. Are you acquainted with the south shore of Nantucket? Is it a dangerous place for a vessel to be stranded upon? Is it not exposed to the reach of the sea?

Answer. I am not much acquainted with that shore. Have been there but once. It is as dangerous as any other place exposed to the ocean. I apprehend there are no rocks there. I never saw or heard of any. It is entirely exposed to the reach of the sea.

Question by same. In whose possession was the brig when you went on board of her at Nantucket? Was she then undergoing repairs, or had she been repaired?

Answer. I don't recollect in whose possession she then was. I don't recollect that there had been any repairs on her hull. It appeared as if they had done something to the rigging. I supposed it had been taken off and replaced. I mean the old rigging had been put on again.

Question by same. Do you know what rigging was upon the brig when you went on board her? State from your recollection particularly whether all her standing rigging was on? Were her topmasts in end? Her topmast rigging on? Yards across? or running rigging rove?

Answer. I cannot remember what rigging was upon her. According to

my recollection, all her standing rigging was on. I think her topmasts were in end, and that her topmast rigging was on. I think most of her yards were across, though not all. I can't recollect whether the running rigging was rove, though I think part of it was.

Question by same. Did you see her sails, cables or anchors?

Answer. I did not as I recollect.

Question by same. Do you know whether the standing rigging had been stripped from said brig while she was on the beach? And do you know that any of the rigging which you say was on her when you were on board had ever been upon her before?

Answer. I do not *know* that the standing rigging had been stripped from her. I have no means, otherwise than from information, of knowing whether the rigging I saw upon her had ever been upon her before.

Question by same. Can you now state, from your own examination, to what extent the standing rigging, running rigging, sails, spars, &c., were injured by the stranding.

Answer. I cannot. I have no means to know.

Question by same. Did you pay any particular attention to the examination which was made on board said brig? Did you examine the paper which you signed? And do you now recollect how you estimated the amount of repairs necessary?

Answer. I did pay particular attention. I was in all parts of the vessel I could get at. I either read the paper or heard it read. We made our estimates by stating the items; so much for caulking, so much for repairing keel, and so on.

Question by same. How long were you engaged in the examination of the said vessel?

Answer. I don't recollect exactly, but should think about half a day. I don't know whether we met more than once or not.

ABNER PEASE.

COMMONWEALTH OF MASSACHUSETTS, *Bristol, ss.*

On this twentieth day of October, in the year of our Lord one thousand eight hundred and thirty-three, the aforesaid deponent was cautioned, examined and affirmed to the deposition aforesaid, by him subscribed, taken by me, by virtue of the agreement hereunto annexed, and to be used in the action referred to in the annexed interrogatories.

Timothy G. Coffin, Esq., was duly notified to attend the taking of said deposition, and was present at the said taking.

C. H. WARREN, Justice of the Peace.

Fees.

Magistrate, - -	$5 00
Expense in notifying deponent	2 00
Deponent's fees - -	89
	$7 89

A.

We, Abner Pease, shipcarpenter, of Fairhaven, in the county of Bristol, and Ariel Coffin, shipmaster, Isaac Hodges, shipcarpenter, both of Nantucket in the county of Nantucket, and State of Massachusetts, do hereby

jointly and severally declare and attest unto all to whom it may concern, that on this eighteenth day of April, in the year of our Lord one thousand eight hundred and twenty-eight, at the instance of Atkins Adams, agent for the underwriters, we went on board and alongside of the brig called the Sarah Ann, of Hamden, State of Maine, of the burden of one hundred and ninety three tons or thereabouts, to examine the said brig, her hull, masts, yards, standing rigging, which said brig was lately stranded on the south side of this island, but now lying in the harbor of Nantucket; and having carefully and particularly examined and surveyed the said brig and appurtenances above mentioned, do report: That the damages the said brig has sustained in her hull and spars in consequence of having been on shore, will amount, to the best of our judgment, to put her in as good order as she was previous to the accident aforesaid, to the sum of four hundred and ninety-two dollars; and as far as we could ascertain the situation of the standing rigging, it is all in good order except the lanyards of the lower shrouds, which are replaced with new rope.

All which we are ready to affirm upon oath when thereto required. Witness our hands at Nantucket, this eighteenth day of April, A. D. 1828.

ABNER PEASE.
ARIEL COFFIN.
ISAAC HODGES.

On this eighteenth day of April, in the year of our Lord one thousand eight hundred and twenty-eight, before me Isaac W. Whitman, Esq. notary public for the commonwealth of Massachusetts, duly commisioned and authorized to administer oaths and affirmations, dwelling in Nantucket, personally came the within named Abner Pease, Ariel Coffin and Isaac Hodges, and being duly sworn or affirmed according to law, solemnly made oath and affirmed that the several matters and things contained in the within survey, are right and true in all respects as the same are therein particularly alleged, declared and set forth.

Sworn and affirmed to by all the deponents, the year and day above mentioned, at said Nantucket. Before me,

[L. S.] ISAAC W. WHITMAN, Not. Public.

And also at this term the following depositions, by consent of parties, were put in by the respondents.

Depositions of G. Myrick and 10 others.

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

[L. S.] The Circuit Court of the United States within and for Massachusetts district, to Martin T. Morton, of Nantucket in the aforesaid district, Esquire:

Know ye, that reposing confidence in your wisdom, prudence and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of such witnesses as shall be produced before you by the defendants in the cause hereinafter named, to be used in a certain cause now pending in said court, wherein John Crosby and another are plaintiffs, and Philip H. Folger and

others are the defendants. And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence; and the same so taken and subscribed, to return, together with this commission and your doings herein enclosed, sealed and directed to the circuit court aforesaid, next to be holden at Boston on the fifteenth day of May next.

In testimony whereof, we have caused the seal of the said circuit court to be hereunto affixed.

Witness the honorable John Marshall, at Boston, this twenty-first day of April, in the year of our Lord one thousand eight hundred and thirty-two.

FRANCIS BASSETT, Clerk.

In pursuance of this commission, I have put the interrogatories thereto annexed to all the witnesses produced before me on the part of the defendants in this cause, and caused their answers to be reduced to writing in my presence, and now enclose them with the commission directed to the honorable court.

MARTIN T. MORTON.

Nantucket, May 12, 1832.

JOHN CROSBY et al.
vs.
PHILIP H. FOLGER et als. } Circuit Court United States.

Interrogatories to be put to George Myrick, George Myrick junior, Franklin Macy, and such other persons as shall be produced to the commissioner by the defendants, whose names are hereto subjoined.

1st. What is your name, age and profession, or business?

2d. Are you acquainted with the plaintiffs, or with the defendants, or either of them, and which?

3d. Do you remember the brig Sarah Ann being ashore on the Island of Nantucket in the month of March, 1828? Did you see her on the shore?

4th. When did you first see the brig?

5th. How many times, and on what days did you see her on the shore?

6th. Did you work upon her? What work did you do? By whom were you employed?

7th. What was the situation of the brig on the shore, and what efforts, if any, were made by the master, officers or crew to get her off? State very particularly all that was done by them, or by any person or persons employed by the master or officers of the brig? Whether or not were the efforts they made judicious and proper?

8. Who was the wreck-master at Nantucket at the time the Sarah Ann was ashore there?

9. Did the wreck-master make any efforts to get the brig off, and what did he do? Were the measures he made use of to get the brig off, judicious and prudent, or the contrary?

10. Whether or not is the place where the brig went ashore, much exposed to the influence and action of the wind and sea; and whether or

not are storms and severe weather frequent at Nantucket in the spring of the year? Whether or not are the storms and gales violent at that season of the year?

11. Whether or not was there a storm after the brig Sarah Ann had been driven on shore as before stated? At what time did it commence; how long did it last; and when did it subside?

12. During said storm did you go on board the brig, or did you go down to the shore near enough to see her situation?

13. If another such storm had arisen while the brig lay on the shore, what in your opinion, judging from her situation, would have been the consequence to the brig? Would she or not have been likely to go to pieces, or to be driven out to sea, or to be seriously injured by the violence of the wind and waves?

14. Whether or not were the brig and her tackle and apparel sold at Nantucket by order of the master? Where was such sale made? Was it a sale by auction? Was there much company present at the auction, and in what manner was the sale advertised or published and conducted?

15. Who purchased the brig at the said auction, and for what price? Who purchased the equipments, and for what prices?

16. In the situation in which the brig lay at the time of her being sold, what in your opinion was the real value of her, taking into consideration the risk of her being broken up or injured by a storm at that season of the year, and the expense and hazard of getting her off?

17. Whether or not was the brig gotten off, and by whom?

18. Where was the brig carried after she was gotten off, and what was done with her there?

19. Whether or not was the brig repaired and refitted for sea? By whose order and expense?

20. What was the whole expense of getting off the brig and repairing and refitting her for sea? Be particular in stating all the expenses of every kind, from the commencement of the undertaking to get her off, until she was fit for sea. And whether or not were they done and completed in a prudent and discreet manner?

21. Whether or not does your statement of the expenses include any thing for the labor of men who were in the constant employ of the defendants, or does it only include the wages paid by them for *extra* laborers? If your statement only comprehends this last, state what sum should be added for the time and labor of the defendants' hired men and laborers.

22. Whether or not was the brig laid at a wharf belonging to the defendants, or either of them; and if your statement in answer to interrogatory 20th does not comprehend wharfage and dockage, state the amount of the charges usually made and paid in Nantucket, for the wharfage and dockage of a vessel of the size of the Sarah Ann?

23. Whether or not did the defendants or any and which of them, superintend *personally* the getting off and repairing of the brig?

24. Does your statement of the expenses include any commission or compensation to the defendants for their personal time and labor in superintending the getting off and repairing of the brig? If not, what was the value of such services as they rendered in this behalf?

25. Whether or not was it in your opinion judicious and prudent in the master of the brig Sarah Ann to make sale of her and her epuipments in the manner he did, taking into consideration the *situation* in which the vessel

lay; the *"season of the year;"* the *exposure* to injury from *storms* and *gales of wind;* and the *chances, difficulties* and expenses of getting her off, and repairing and refitting her? Please to give the court and jury your best judgment and opinion hereon.

26. Do you know any other matters or things material or useful to the defendants? If you do, please to state them as fully as if specially interrogated thereon.

CHARLES P. CURTIS, Counsel for def'ts.

The witnesses to be examined are:

William Coffin,	Obed Macy,
Daniel Jones,	Frederick W. Mitchell,
John Cartwright,	Franklin Macy,
Joseph Starbuck,	Seth Pinkham,
Simeon Starbuck,	Levi Starbuck,
George Myrick	James Mitchell,
George Myrick, jun.,	Matthew Myrick,
Elisha Starbuck,	Thomas V. McCleve,
James Athram,	Oliver C. Gardner,
Aaron Mitchell.	

Together with such other persons as shall be produced before the commissioner.

Cross interrogatories to witnesses produced on the part of the defendants.

1. Did you or either of you undertake to act as wreck master, at the time the said brig Sarah Ann was ashore? If yea, from whom did you derive your authority? And if the same was in writing, please to annex the same or a true copy thereof, and any instructions relating to the same.

2. Of what did the cargo of the said brig consist? And what proportion of the same was damaged?

3. Was not the cargo landed with but trifling injury, and shipped to Boston?

4. How long did it take to land the cargo, and how was the weather during that time?

5. On what day did you first go to the vessel; at what time did you arrive there; who was with you; and in what manner did you go there;—how many persons were there in company?

6 What work was done on that day; was the vessel unloaded in whole or in part? If in part, how great part of her cargo was taken out of her? Please to state particularly.

7. What attempt was made on that day to get the vessel off? Were her anchors taken out? If so, what purchase had you on them? Did you heave home the anchors or start the vessel?

8. Was there a storm after the first day's labor on board the vessel? if so, how long did it continue,—or did any injury happen to the vessel in consequence of it?

9. When did you begin to work on board the vessel again; and how many hands were employed, and how soon was the cargo discharged?

10. After the cargo was taken out of the vessel was there any attempt made to get her off? If so, please to state what that attempt was, and who assisted in it. Be particular in stating what was done, and the day when, and describe accurately the attempt made.

11. On what day were the sails and rigging taken ashore; and which of the spars were taken on shore?

12. After the vessel was dismantled, were there any attempts made to get the vessel off? If so, describe particularly what those attempts were, and who assisted in them, and who directed the efforts. Was it a person skilled in getting vessels afl at?

13. What was done after the twenty-seventh day of March, and between that time and the day on which the alleged sale of the vessel took place? State particularly all that was done in relation to the vessel; who did it; and under whose directions it was done.

14. What was the state of the weather, and the direction of the winds from the 24th day of March till the vessel was in Nantucket harbor?—describe it on each day. Was it not pleasant weather the whole time?

15. Did the vessel remain fixed in the same place after the cargo was taken out 'til she was sold?

16. How long did it take to get the vessel off? How many hands were employed in doing it? And what method was adopted in getting her off? Describe and state the facts particularly.

17. Were you or either of your relatives or intimate friends concerned in the purchase of the vessel? or did you at any time afterwards become interested in her, and if so, to what extent?

18. Did Captain Phillips advise to the sale of the brig; or did you act under any written instructions from him? If so, please to produce them, and annex them, or a true copy of them to your answers.

19. Was not Captain Phillips an old and infirm man? And what assistance did he in fact render in attempting to get the vessel off?

20. What attempts, if any, did you advise or order to get the vessel afloat after she was discharged of her cargo? What materials were used for that purpose, and how long were your exertions continued? State in detail.

21. What was the state of the weather on the day of sale; and what at the time of sale? State as to the strength of the wind, and the manner in which the vessel then lay.

22. Could you or not have sent the sails and rigging and materials of the vessel to Boston with her cargo? If you say you could not, state the cause or reason why you could not; and if you could have sent them to Boston with the cargo, then state the reason why you did not do it.

23. Were not the sails and rigging on shore when sold, and in a place of safety, and good order and condition? And if you should say they were not in a place of safety, could they not have been easily put in such a place?

24. Was there any secret undertaking or agreement, or any open understanding, that the sails and rigging and materials of the vessel which were landed should be sold immediately after the brig was sold, and how was this fact known?

25. Were you not directed by letter to send all the materials of the vessel, in case she could not be got afloat, to Boston?

26. Was the sale of the vessel determined on before sending to Boston the news of the stranding? If not, when was it first determined on, and by whom?

27. Did or did not the vessel, when you first saw her, lay head on toward the shore? How did she lie after the cargo was taken out? And in what manner and in what place did she lie at the time of the alleged sale? Was it rainy on that day, or did the sun shine, and from what quarter was the wind?

28. On what day, and how was the vessel brought into Nantucket? Did she then leak, and how much, and what was the injury to her hull? Were any planks started,—and did her keel receive any injury? Was there any examination of, and survey upon her? And if so, when and by whom? And if there was one, please to produce it and annex it to this deposition.

29. Were there any rocks where the brig went on shore, and was she sheathed? If so, did her sheathing receive any injury; and if any how much? And did the water flow round her, or did she lie high and dry?

30. How much did the hull and masts, &c. sell for? And how much the materials of the vessel? Please to state the account of sales, and give the names of the purchasers severally according to the entries in your books or account.

31. What has been done with the chain and anchor recovered after the sale of the other materials?

32. What is the amount of net proceeds of the whole vessel and materials, and to whom has the money been paid, or to whom have you offered to pay it? And where is it now, and in what manner has it been used, or how is it invested? State particularly as to all the facts enquired of.

33. In the tenth direct interrogatory you are asked to give a description of Nantucket, storms, &c. Please to state how many storms there were from the time the brig Sarah Ann was discharged until she was off. With what violence did the wind blow, and did it rain and snow during that period?

34. How long were they heaving upon the tackles after they were fixed, before the vessel was afloat?

35. Did not the owners or agents of said vessel, or some person or persons claiming to act in this behalf, offer to take the said vessel and pay the expenses of getting her off? If yea, was said offer agreed to? *State* all the particulars.

36. What became of the said vessel? Was she afterwards sold? And if so, to whom, and for how much?

37. Do you of your own knowledge know what expenses were incurred in getting off the said vessel? Have you seen the bills of the expense; and were they actually paid agreeably to the face of the bill?

38. What is the usual price of labor at Nantucket, in the latter part of March, and the beginning of April? And if you employed men in laboring on the brig, in landing the cargo, or getting out the sails or rigging and materials, how much did you in fact pay them, and what men did you employ?

39. Do you or not know that the brig Pearl was cast on shore at Nantucket? If yea, when did she get on shore, at what season, and by whom was she gotten off? And how far was it from the place where the brig Sarah Ann was sold? State the distance on the beach as near as you can.

40. Please to state who is present with you at the time of your giving your deposition in this case. Name all the individuals. Have the questions been shown to you before you have been called to answer them? If so, by whom? And have any answers been written down for you to sign before going before the magistrate,—or has your testimony or what you could say at any time been reduced to writing? If so, by whom and at whose request? And if in your possession, please to annex the same to this deposition.

41. If in answer to any of the direct interrogatories you state that you know the facts of which you are enquired of, please now to state the means of your knowledge, whether from the information of others, or not.

SAM. HUBBARD,
of Counsel for Plaintiffs.

42. Were you on board the vessel or at the beach where she lay prior to the day of sale? If so, on what day or days were you there; and at whose request did you go?

43. Did you take any particular notice of the vessel, or make any calculation as to the expense of getting the vessel off?

44. Did not the men who assisted in getting the vessel off volunteer their services, as they do at a raising; or was there a previous agreement to pay them for their services? And if so, what was that prior agreement, and were you a witness to it?

45. Prior to the sale of the vessel, were the lower shrouds taken off the masts or not?

46. Why did you not carry the materials, sails and rigging to the town, as well as the cargo?—or if you had no agency as to the transporting them, can you say why they were not transported as well as the cargo?

47. What became of the cables and anchors of the vessel; and were they or not used in getting off the vessel at the time she floated?

48. How long a time was actually employed in getting the vessel, and did you personally assist in it?

49. Could not the vessel have been secured by an anchor or anchors, on the beach high up, with suitable cables, or in some other and what manner, so that notice of the shipwreck might have been sent to Boston without any just cause of apprehension that she would float off and go to sea, or thump to pieces? Describe the shore; is it not bold, and the sand quick?

50. Was the vessel sold to the defendants, they taking the risk of title, or in case they lose in this suit, have they a claim on the vendors,—and was such agreement in writing? If so, please to annex it, or a true copy. Please to state the true nature of the contract.

51. Upon what terms or conditions did the person acting as wreck-master sell the vessel? Please to state them; were they in writing, and who were the vendees? Name them.

52. Did Captain Pnillips go to the vesssel after he left her on the 24th or 25th of March? State the fact truly herein.

53. Do you know any other matter or thing that can benefit the plaintiff? If so, be pleased to state the same as fully as if you were specially enquired of as to such matters.

Speciel interrogatory to William Coffin, Daniel Jones, Joseph Starbuck, James Athram, Aaron Mitchell, Frederic W Mitchell and Seth Pinkham, Levi Starbuck and Thomas McClure and Elisha Starbuck.

1. Did you see the vessel while she lay on the beach; and were you consulted by the master, or any one in his behalf as to the practicability of getting the vessel off? If the vessel had been your own, good, staunch and strong, without leaking, and no serious injury in her bottom, and worth five thousand dollars in Nantucket harbor, with her sails and rigging, and you had no insurance; should you, as the weather was, and the situation the vessel was in, have sold her as she lay, or have attempted to get her off? State the truth fully in these particulars.

SAM. HUBBARD,
for Plaintiffs.

An additional Direct Interrogatory.

27. Please to state whether any new rigging, boats, or equipments of any kind were found and provided by the defendants for the brig Sarah Ann? And if yea, specify them particularly, with the cost of each, and the expense of fitting them to the vessel.

C. P. CURTIS.

A true copy of the direct and cross interrogatories.
Attest: FRANCIS BASSETT, Clerk.

Further Direct Interrogatories.

28. What proportion of all the vessels that have been stranded at Nantucket during the last twenty years have been gotten off and saved?

29. Where did the brig Pearl lie? Was it within reach of the breakers, or high up out of their reach?

C. P. CURTIS, Attorney.

Further Cross Interrogatories.

If, in answer to the 28th direct interrogatory, you undertake to state the proportion of stranded vessels that have been gotten off and saved during the last twenty years—then please to state your actual knowledge on the subject, and not what you have heard from others. State the number of vessels that have been stranded, their respective names, their size and age, the places they were from, and where bound; the various months in which they wrecked; the places round the island where they were wrecked; the means employed to get them off; by whom they were got off; whether the owners were present or advising respecting the getting them off; and the expenses actually paid in getting them off. And state with so much accuracy as to enable a person to make just comp risons between those cases and that of the Sarah Ann. Were you a purchaser of any such wrecks, or owner at the time of the wreck? Please to state as to the vessels not got off. Did they not go to pieces at or about the time they were wrecked? State any instances where a vessel was not got off that did not bilge at or about the time she was wrecked, and name them specially.

S. HUBBARD, for Plaintiffs.

A true copy of the further direct and cross interrogatories.
Attest: FRANCIS BASSETT, Clerk.

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Joseph Starbuck, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the annexed answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers to the Direct Interrogatories.

Answer to the 1st. My name is Joseph Starbuck. My age is fifty-eight years; profession or business mercantile.

Answer to the 2d. I am acquainted with Philip H. Folger and others, but not with the plaintiffs.

Answer to the 3d. I saw a brig on shore that Philip H. Folger and others purchased, and suppose her to have been the Sarah Ann.

Answer to the 4th. On the day she was sold.

Answer to the 5th. I was on the beach where she lay at no other time.

Answer to the 6th. I did no work on her.

Answer to the 7th. She lay in the surf, and nothing was done while I was there towards getting her off.

Answer to the 8th. I do not recollect.

Answer to the 9th. Not while I was present.

Answer to the 10th. The place is very much exposed. They are very frequent. We have some strong gales from the southward in the spring.

Answer to the 11th. I don't recollect.

Answer to the 12th. I did not.

Answer to the 13th. I don't remember that there was a storm. I think, if there had been a storm, she would have broken up.

Answer to the 14th. I cannot answer by whose order the brig was sold. She was sold at auction on the beach where she lay. There was a large company, considering the distance from town. I do not recollect how the sale was published. I discovered nothing different from other sales.

Answer to the 15th. Philip H. Folger and others purchased the brig. I do not remember the price. I think they purchased the greater part of her equipments.

Answer to the 16th. I did not consider her worth any thing to get her off. I told them that I would not take her as a gift to be obliged to get her off.

Answer to the 17th. She was gotten off by Philip H. Folger and others.

Answer to the 18th. If my memory serves me right, she was brought into one of the wharfs here.

Answer to the 19th. I believe she was refitted; I cannot say by whom.

Answer from the 20th to the 24th, inclusive. I know nothing of these expenses.

Answer to the 25th. I think he acted wise in selling her.

Answer to the 26th. I do not.

Answers to Cross Interrogatories.

Answer from the 1st to the 4th, inclusive. I was no wreck-master, and know nothing of the business.

Answer to the 5th. I went on the day of sale; I do not recollect who were with me.

Answer from the 6th to the 16th, inclusive. I cannot make any answers to these questions

Answer to the 17th. I was not concerned myself, and know of none of my friends that were.

Answers from the 18th to the 20th, inclusive. I do not know.

Answer to the 21st. If I remember right, the weather was fair, and the wind blowing from the southward. I cannot be certain how the vessel lay.

Answer to the 22d. I had nothing to do with them.

Answer to the 23d. They were on shore when sold, and could have been put in a place of safety.

Answer to the 24th. I know of no such part.

Answer to the 25th and 26th. I know nothing about it.

Answer to the 27th. I did not see the vessel before the day of sale. I cannot recollect how she then lay. I have before stated all I recollected about the wind and weather.

Answer to the 28th. I do not know.

Answer to the 29th. I should think there was no rocks. I could not tell whether she was sheathed or not; nor what injury she sustained. She lay in the surf, the surf washing round her.

Answer to the 30th to the 39th, inclusive. I know nothing concerning these things.

Answer to the 40th. There are no persons present beside the magistrate and Charles K. Whitman. The questions have not been shown me before now, nor my testimony been reduced to writing before going before the magistrate.

Answer to the 41st. All that I state is from my own knowledge.

Answer to the 42d. I was not.

Answer to the 43d. I took notice of the vessel, but made no calculation of the expense of getting her off, further than that I thought it would cost more than she would be worth when off.

Answers from the 44th to the 48th, inclusive. I do not know.

Answer to the 49th. I should think not, so as to have laid safe. She might have been secured against going off, but not from going to pieces. The shore is not very bold, and the sand not very soft.

Answer from the 50th to the 52d, inclusive. I do not know.

Answer to the 53d. I know nothing more.

Answers to Special Interrogatory.

1. I saw the vessel on the beach. Was not consulted. I think I should have sold her.

Answer to additional Direct Interrogatory.

27th. I do not know.

Answer to further Direct Interrogatories.

28th. I cannot say.

29th. I do not recollect her situation.

Answer to further Cross Interrogatories.

I do not undertake to state the proportion.

JOSEPH STARBUCK.

Nantucket, May 10th, 1832.

Deposition	$5 00
Deponent's fee	0 58
	$5 58

130.

Answers to the direct Interrogatories.

Answer to the 1st. My name is William Coffin; my age is seventy-five years. My profession or business since 1804 to the present time has been President of the Nantucket Union Marine Insurance Company.

Answer to the 2d. I am acquainted with Philip H. Folger.

Answer to the 3d. I did not see her, but recollect of hearing such a vessel was on shore.

Answer to the 4th. I never saw her to my knowledge.

Answer from the 5th to the 9th interrogatory, inclusive. I know nothing of these questions.

Answer to the 10th. I understood the brig was on shore on the south side of this Island, which is very much exposed to southerly and easterly winds; many of which we have in the spring of the year, which throws a great sea on the shore. The storms are not more violent at that season than in the winter.

Answer to the 11th. I have no recollection about it.

Answer from the 12th to the 26th interrogatory, inclusive. I know nothing about them.

Answers to Cross Interrogatories.

Answer to the cross interrogatories from the 1st to the 39th, inclusive. I never saw the brig Sarah Ann to my knowledge; and have no personal knowledge of any of the matters contained in these interrogatories.

Answer to the 40th. The magistrate, and Charles K. Whitman writing down my answers. The questions have not been shown me, and no answers have been written for me to sign.

Answer to the 41st. I know of the brig Sarah Ann being on shore only from the information of others.

Answer from the 42d to the 43d, inclusive. I know nothing.

Answer to Special Interrogatory.

1. I did not see the vessel. I have no recollection of being consulted in the case. I think I should have sold the vessel as she lay.

Answers to additional Direct Interrogatories.

Answer to 27th. I know nothing about it.

Answer to further Direct Interrogatories.

Answer to 28th. I have no direct knowledge on the subject; but it is my opinion not one-tenth part.

Answer to 29th. I never saw her.

Further Cross Interrogatories.

Answer. I do not undertake to state the proportions. I never was a purchaser or owner of any wreck on the south side of Nantucket. I once purchased a wreck on the Nantucket bar, and she went to pieces. I have not been in the habit of visiting wrecks lying on the shores of this Island.

WILLIAM COFFIN.

Nantucket, May 10th, 1832.

Deposition	$5 00
Deponent's fee	0 58
	$5 58

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth William Coffin before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined, and cautioned, and sworn in due form of law, to testify the whole truth, and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden in Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another, are plaintiffs, and Philip H. Folger and others, are defendants, and maketh oath to the truth of the annexed answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this ninth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Levi Starbuck before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States next to be holden in Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the annexed answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers to direct Interrogatories.

Answer to the 1st. My name is Levi Starbuck—my age is sixty-two years—my profession or business a merchant.

Answer to the 2d. I am acquainted with Philip H. Folger and others.

Answer to the 3d. I do; I saw her on the shore.

Answer to the 4th. I do not recollect; I was at the beach but twice; once was on the day of sale. I went for the purpose of purchasing the brig and materials if I thought there was a prospect of getting her off; but my judgment was that there was so little prospect of getting her off, I never made a bid on the vessel, but purchased a few articles of her equipments. They went so high that I purchased but a small amount, say ten or twelve dollars worth.

Answer to the 5th. I saw her twice. I do not remember what day besides that she was sold.

Answer from the 6th to the 9th inclusive. I know nothing of this.

Answer to the 10th. It is much exposed. Storms are frequent, and sometimes severe.

Answer to the 11th. I don't recollect.

Answer to the 12th. I never was on board.

Answer to the 13th. If a severe storm had happened, I think she would have gone to pieces.

Answer to the 14th. I do not know who ordered the brig sold. She was sold at auction on the beach where she lay. There was a good many people on the beach. I do not know in what manner the sale was advertised. I heard she was to be sold, and attended the sale.

Answer to the 15th. I don't know.

Answer to the 16th. I should not have been willing to have given more than fifty dollars. If she had broken up, there would have been but little prospect of saving much.

Answer to the 17th. She was gotten off by Philip H. Folger and others.

Answer to the 18th. She was brought into the harbor and refitted.

Answer to the 19th. She was repaired; by whose orders and expense I know not.

Answer from the 20th to the 24th inclusive. The expenses and refitting I know nothing of.

Answer to the 25th. I should think it was good judgment to sell the vessel, and make the most of the property.

Answer to the 26th. I don't know nothing more.

Answer to Cross-Interrogatories.

Answer from the 1st to the 16th inclusive. I know nothing about them.

Answer to the 17th. It appeared so; but I did not know any thing of it at the sale. Philip H. Folger's former wife was my daughter. I was not at any time interested in her.

Answer from the 18th to the 20th inclusive. I know nothing in regard to them.

Answer to the 21st. All I recollect is, that it was a pretty fair day. I don't recollect about the wind; the vessel lay wallowing in the surf.

Answer to the 22d. I had nothing to do with them.

Answer to the 23d. They were so far safe as to be on shore, and out of the way of the surf.

Answer to the 24th. I know of none.

Answer to the 25th. I know nothing about it.

Answer to the 26th. I know nothing about it.

Answer to the 27th. She lay on the day of sale quartering on shore, bowing to the sea a little. It was a pretty fair day, and I don't remember about the wind.

Answer to the 28th. I know nothing of this.

Answer to the 29th. There was no rocks in sight where she lay. I do not know whether she was sheathed or not, nor how much injured. The breakers run up round her.

Answer from the 30th to the 37th inclusive. I know nothing about the proceedings.

Answer to the 38th. One dollar per day for lumpers in town. I did not employ men to work on the brig.

Answer to the 39th. I know that there was such a vessel on shore, and

was taken off; when I don't recollect, nor by whom. The distance from where she was on shore to where the Sarah Ann was sold I should think was about three miles and one half.

Answer to the 40th. The magistrate and Charles K. Whitman. These questions have not been shown me before this time. No answers to these questions have been written down for me to sign. I have given a deposition in this case before, at whose request I have forgotten. It is not in my possession.

Answer to the 41st. The facts that I have stated, are from my own knowledge.

Answer to the 42d. I never was on board the vessel. I was at the beach once previous to the sale, and at the request of no one.

Answer to the 43d. I did not, but thought it would be an expensive undertaking.

Answer to the 44th. I know not.

Answer to the 45th. I don't recollect whether the lower shrouds were on or off.

Answer to the 46th. I know nothing about it.

Answer to the 47th and 48th. I know nothing about it.

Answer to the 49th. I don't think she could have been secured on shore against the effects of a gale of wind. It is not a bold shore, but it is sandy. The sand frequently shifts.

Answer from the 50th to the 53d inclusive. I know nothing about the transaction, or any thing for the benefit of the plaintiffs.

Answer to special Interrogatory.

1. I saw the vessel lay on the shore as before stated, but was not consulted by any one about getting her off. If the vessel had been my own, under her circumstances, I should have considered her in a measure gone.

Answer to additional direct Interrogatory.

Answer to 27th. I know nothing about them.

Answer to further direct Interrogatories.

Answer to 28th. I don't know, but should think a very small proportion.
Answer to 29th. I never was at the shore while the brig Pearl was ashore.

Answer to further Cross-interrogatories.

I know not how many vessels have been stranded, nor how many have been got off, nor the expenses attending the same; and have not been interested in any wreck except the ship Rose, which now lies on the flats full of water.

Nantucket, May 9th, 1832.

LEVI STARBUCK.

Deposition	$5 00
Deponent's fee	58
	$5 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this ninth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Thomas V. McCleve, before me the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law, to testify the whole truth and nothing but the truth relating to a certain action now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants; and maketh oath to the truth of the annexed answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers to the direct Interrogatories.

Answer to the 1st. My name is Thomas V. McCleve—aged sixty-one—by profession a mariner.

Answer to 2d. I am acquainted with Philip H. Folger.

Answer to the 3d. I do, I did.

Answer to the 4th. I saw her the first day she got on shore.

Answer to the 5th. I saw her every day until she was got off.

Answer to the 6th. I did not work upon her myself, but my vessel was employed in carrying up materials to get her off.

Answer to the 7th. I considered the situation of the brig desperate, and not worth getting off. I don't know what efforts were made by the master and officers and crew to get her off.

Answer to the 8th. George Myrick was wreck-master.

Answer to the 9th. I cannot tell exactly what efforts were made to get her off.

Answer to the 10th. The place where the vessel went on shore is very much exposed to wind and sea. They are—they are.

Answer to the 11th. There was not any severe storm after she came on shore.

Answer to the 12th. I did not go on board, but was on the beach close along side of her.

Answer to the 13th. She must have bilged had there come on a storm.

Answer to the 14th. I cannot say whether she was sold by order of the master or not. The sale was made on the beach, and a great company of men attended the sale. It was regularly published and conducted.

Answer to the 15th. Philip H. Folger and others. He was principal. I have forgotten what they gave for the brig at the time. A number of people. I purchased some—Philip H. Folger was the greatest purchaser. I cannot recollect the prices any of the things sold for. The sale was fairly conducted.

Answer to the 16th. My opinion at that time was, that she was worth no more than to break up; not exceeding fifty dollars.

Answer to the 17th. She was got off by Philip H. Folger.

Answer to the 18th. She was brought into this harbor. She was repaired, rigged, and sent to Boston.

Answer to the 19th. She was, by Philip H. Folger and others.

Answer to the 20th. I don't know.

Answer to the 21st. I know nothing about it.

Answer to the 22d. I cannot tell any thing about it.

Answer to the 23d. Philip H. Folger superintended in getting her off. Valentine Hussey or his brother superintended in repairing her.

Answer to the 24th. I don't know any thing about the expense of getting off and repairing.

Answer to the 25th. It was in my opinion prudent in the captain to make sale of the brig and equipments as he did. It was my opinion at that time.

Answer to the 26th. I do not.

Answers to Cross-interrogatories.

Answer to the 1st. I did not.

Answer to the 2d. I have forgot what the cargo was, and how much damaged.

Anwers to the 3d. I cannot tell what injury the cargo did meet with.

Answer to the 4th. I cannot tell how long it took to land the cargo. The weather was rough part of the time, which rendered it difficult to land the cargo.

Answer to the 5th. I was there the first day that she got on shore; I arrived there in the afternoon. I don't recollect who went with me; there was a number of people. I went in a wagon.

Answer to the 6th. The vessel was unloaded in part;—just commenced unloading her.

Answer to the 7th. There was nothing done while I was there towards getting the anchors out. I don't know whether they were out or not, for I staid but a short time.

Answer to the 8th. I cannot recollect whether there was, or was not.

Answer to the 9th. I did not work at all on board.

Answer to the 10th. I cannot tell.

Answer to the 11th. I cannot tell.

Answer to the 12th. That I cannot tell.

Answer to the 13th. That I cannot tell.

Answer to the 14th. I cannot recollect.

Answer to the 15th. I cannot tell.

Answer to the 16th. I don't know.

Answer to the 17th. No, I did not.

Answer to the 18th. I don't know, I did not act under him.

Answer to the 19th. I was not acquainted with Captain Phillips.

Answer to the 20th. I was not knowing to any.

Answer to the 21st. The weather at the time of sale looked very likely for a storm. I forget how the wind was. The vessel lay very uneasy.

Answer to the 22nd. I don't know.

Answer to the 23d. They were not in a place of safety, and in bad order. Not without more expense than they would amount to.

Answer to the 24th. Not that I know of.

Answer to the 25th. I did not receive a letter.

Answer to the 26th. I do not know.

Answer to the 27th. The vessel lay broadside to shore on the south side of the island, westward of the Smooth Hummock Pond. I forget whether it rained on that day or not. I cannot tell how the wind was.

Answer to the 28th. I cannot tell.

Answer to the 29th. There were no rocks where the brig went on shore. I do not know whether she was sheathed or not. The water flowed round her.

Answer to the 30th. I cannot tell.

Answer to the 31st. I do not know.

Answer to the 32d. I do not know.

Answer to the 33d. I cannot recollect.

Answer to the 34th. I don't know that.

Answer to the 35th. I don't know.

Answer to the 36th. I cannot tell.

Answer to the 37th. I do not.

Answer to the 38th. On wrecks it varies; from four to five dollars per day. I did not employ men.

Answer to the 39th. I have forgot about it.

Answer to the 40th. The Magistrate and Charles K. Whitman, who is writing down my answers. They have not. It has not.

Answer to the 41st. From my own knowledge.

Answer to the 42d. I was on the beach while the brig lay there, at no one's request.

Answer to the 43d. I did not.

Answer to the 44th. I don't know.

Answer to the 45th. I have forgotten.

Answer to the 46th. I cannot say.

Answer to the 47th. I don't know. Mr. Folger employed my vessel to carry anchors, cables, &c., from town to get the vessel off with.

Answer to the 48th. I cannot tell, I was not employed.

Answer to the 49th I don't think she could. The shore is very shallow for some distance off.

Answer to the 50th. I don't know.

Answer to the 51st. Cash on hand. I don't know who purchased her.

Answer to the 52nd. That I don't know.

Answer to the 53d. I don't.

Answer to special Interrogatory.

1. I did see the vessel lying on the beach, but was not consulted by any one about getting her off. I cannot say whether I should or should not have attempted to get her off. There was a company to which I belonged that intended buying the vessel, providing she did not go for more than fifty dollars.

Answer to additional direct Interrogatory.

Answer to 27th. I cannot tell.

Answer to further direct Interrogatories.

28th. That I could not tell.

29th. I have forgotten about the brig Pearl.

Answer to further Cross Interrogatories.

I do not undertake to state the number of vessels that have been cast away on this island for twenty years.

THO. V. McCLEVE.

Nantucket, May 9th, 1832.

Deposition	$5 00
Deponent's fee	58
	$5 58

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this ninth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Elisha Starbuck, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the annexed answers to interrogatories put to him, and subscribes the same in presence

M. T. MORTON, Jus. Pacis.

Answers to the direct Interrogatories.

Answer to the 1st. My name is Elisha Starbuck; my age is fifty-two years; my profession that of an auctioneer.

Answer to the 2nd. I have seen John Crosby, and conversed with him; but have no particular acquaintance with him. I am acquainted with Philip H. Folger.

Answer to the 3d. I saw the brig Sarah Ann, on shore on the island of Nantucket.

Answer to the 4th. I first saw the brig on the day I sold her, which was on the 28th day of March, 1828.

Answer to the 5th. I saw her while on shore; at no other time.

Answer to the 6th. I did no work on the vessel.

Answer to the 7th. The brig when I saw her, according to the best of my recollection, lay along the shore, and somewhat stern on. I know not what efforts were made to get her off.

Answer to the 8th. George Myrick was one, I believe.

Answer to the 9th. I do not know.

Answer to the 10th. The place is very much exposed to the wind and sea. Storms are quite frequent, and sometimes quite severe.

Answer to the 11th. I do not remember any thing about it.

Answer to the 12th. I did not.

Answer to the 13th. I have no opinion.

Answer to the 14th. The master, Captain Phillips, and George Myrick called on me together, to advertise and sell the brig and materials. The sale was made on the beach near where the vessel lay, by auction. There

was a great company, and I should think there were the representatives of half a million of dollars present. The sale was advertised by written advertisements posted up in the most conspicuous and public places in town. In this case, I put up more than usual. The sale was conducted openly and fairly.

Answer to the 15th. Philip H. Folger purchased the brig for $127 dollars. The equipments were sold in a great many different lots. They were purchased by Valentine Hussey, John B. Nicholson, Samuel B. Tuck, George Myrick, jr., Thomas V. McCleve, Peter F. Ewer, Levi Starbuck, Isaac Austin, James N. Basset, and Philip H. Folger and others. Sales amounted to $422 40.

Answer to the 16th. The real value in my opinion before she was sold was less than she sold for. I thought she would bring about one hundred dollars.

Answer to the 17th. The brig was gotten off, and as I understood by Philip H. Folger; and in my opinion no other person here would have been so likely to have gotten her off, he having all the necessary materials on hand at the time.

Answer to the 18th. She was brought round into the harbor, and laid at the wharf.

Answer to the 19th. She was, but by whose orders and expense I do not know.

Answer to the 20th. I do not know.

Answer to the 21st. I have made no statement.

Answer to the 22nd. I don't know.

Answer to the 23d. I cannot tell; I was not present.

Answer to the 24th. No statement is made.

Answer to the 25th. I think it was a judicious act in the master to make sale of her as he did, as there had been but very few vessels gotten off situated as she was, prior to that time.

Answer to the 26th. I recollect nothing further at present.

Answers to Cross Interrogatories.

Answer to the 1st. I did not.

Answer to the 2nd. I cannot say of what the cargo consisted.

Answer to the 3d. I don't know.

Answer to the 4th. That I do not know.

Answer to the 5th. I went to the vessel the first and only time on the 28th day of March, 1828, for the purpose of selling the vessel and appurtenances. I went in a wagon in company with Jonathan Hall and my son William C. Starbuck.

Answer from the 6th to the 16th interrogatory, inclusive. I have no knowledge of the matters enquired into from the 6th to the 16th interrogatory, inclusive.

Answer to the 17th. I was not concerned in the purchase of the vessel, and was never interested in her. I know no other purchaser than Philip H. Folger.

Answer to the 18th. Captain Phillips advised to the sale of the vessel, but I do not recollect having any written instructions from him.

Answer to the 19th. Captain Phillips appeared to be a man somewhat ad-

vanced in life. I know nothing of his infirmities. He appeared as active as most men of his age. I think he was under sixty years of age.

Answer to the 20th. I have no knowledge about it.

Answer to the 21st. The weather was fair, and the wind fresh. The vessel lay as stated in my answer to the 7th direct interrogatory.

Answer to the 22d. I had nothing to do about it.

Answer to the 23d. The sails and rigging were on shore when sold. I should not say they were in very good order, having been injured, and cut and wet, in getting from the vessel on shore.

Answer to the 24th. There were none to my knowledge. There were several companies made up and attended the auction for the purpose of purchasing the vessel. Joseph and Levi Starbuck bid on her until she went beyond what they were willing to give for her.

Answer to the 25th. I was not so directed.

Answer to the 26th. I know not when or by whom.

Answer to the 27th. The vessel did not lie head on shore when I first saw her. She then lay as described in my answer to the 7th direct interrogatory. She lay between the Hummock and Long ponds, (so called.) The weather was lowery, and the wind about southwest, blowing very nearly direct on shore at the time of sale.

Answer to the 28th. I don't know on what day, or how she was brought in. I know nothing of these particulars.

Answer to the 29th. I do not know of any where the vessel went on shore. I don't know whether she was sheathed or not, or what injury she had received. Her stern was very near the shore, so that people went on board dry by means of a rope, when the surf was down.

Answer to the 30th. I answer by annexing hereto a copy from our sales book.

Answer to the 31st. I don't know.

Answer to the 32nd. What moneys I received after deducting my commissions &c., I paid over to George Myrick, as agent.

Answer to the 33d. I do not recollect whether there was a storm or not during this time.

Answer to the 34th. I do not know, not being present.

Answer to the 35th. I am not knowing to any thing of the kind.

Answer to the 36th. She left here, and I do not know what became of her afterwards.

Answer to the 37th. I do not, and have seen no bills against her.

Answer to the 38th. The fair price of labor in town at this season would be one dollar per day; I employed no men to labor on this vessel.

Answer to the 39th. I never saw the brig Pearl.

Answer to the 40th. The magistrate, and Charles K. Whitman writing for him. The questions have not been shown me until called before the magistrate to answer them. No questions have been asked or answers given prior to this time.

Answer to the 41st. My answers to the questions are from my own knowledge, except that of by whom the vessel was gotten off.

Answer to the 42d. I was not.

Answer to the 43d. I noticed the wreck, but made no calculation of the expense of getting it off.

Answer to the 44th. I know of none volunteering their services in this case. Philip H. Folger sent to me to engage fifteen or twenty men to assist

on the day she was got off. I believe he authorized me to pay then five dollars each. I sent up several, but not as many as he authorized me to.

Answer to the 45th. I find by examining our account of sales that they were taken off before the sale, and sold on the beach with the other rigging.

Answer to the 46th. I had no agency in the business.

Answer to the 47th. I never saw cables or anchors.

Answer to the 48th. I did not assist, and do not know.

Answer to the 49th. My opinion is she could not have been secured. The shore is not very bold. The sand moves with the tide and surf. It makes up and washes away often.

Answer to the 50th. I know of no written agreement. My impressions were that the purchasers took no risk of title.

Answer to the 51st. I know of no person acting as wreck-master. Captain Phillips and George Myrick called on me to sell the vessel, and I know no other purchaser than Philip H. Folger. It was a cash sale unconditionally.

Answer to the 52d. I know not when Captain Phillips went, or when he left her. He was at the sale.

Answer to the 53d. I do not.

Answer to the Special Interrogatory.

I saw the vessel on the beach on the day of sale, but was not consulted as to the practicability of getting her off. It is very probable I should have attempted to get her off under these circumstances; but very likely I should have failed, not having the facilities Mr. Folger had.

Additional Direct Interrogatory.

Answer to 27th. I do not know.

Further Direct Interrogatories.

Answer to 28th. I don't know the proportion; but very small of those that have been stranded on the outside of this island.

Answer to 29th. I never saw her.

Answer to further Interrogatory.

I do not pretend to state any proportion. I was interested in the purchase of the brig John Harris, stranded at Smith's Point, about two miles westward of the place where the Sarah Ann lie. She was a new vessel, but five months old at the time of stranding. She went to pieces finally. She did not bilge immediately; it might have been several weeks.

Nantucket, May 9th, 1832.

ELISHA STARBUCK.

Deposition,	$5 60
Deponent's fee and copy,	1 58
	$6 58

Sales of wrecked Brig Sarah Ann and appurtenances, at auction, by Starbuck & Co. on the beach near the head of Hummock Pond, for account of whom it may concern.

1828.	Purchaser.	Article.	Amount.
March 28,	P. H. Folger	Brig Sarah Ann as she lies,	127 00
	Vale. Hussey	1 long-boat,	4 00
	J. B. Nicholson	1 yawl,	6 00
	P. H. Folger	Gang fore rigging,	20 00
	do	1 Lot rigging B. S.	19 00
	Vale. Hussey	1 " do T. M. shrouds,	9 25
	S. B. Tuck	1 " do Main rigging &c.,	29 00
	Geo. Myrick, jr.	1 " Rigging,	6 75
	S. B. Tuck	1 " do	8 50
	do	1 " do	7 00
	do	1 " do	8 75
	T. V. McCleve	1 " do	4 00
	Saml. B. Tuck	1 " do	13 75
	T. V. McCleve	1 " do	5 75
	Saml. B. Tuck	1 " do	4 00
	P. F. Ewer	1 " do	4 25
	do	1 " do	6 00
	Geo. Myrick, jr.	1 " do	3 25
	P. F. Ewer	1 " do	4 25
	Vale. Hussey	1 " Blocks,	7 25
	P. F. Ewer	1 " do	3 00
	Levi Starbuck	1 " do	5 25
	P. H. Folger	1 " Boom, &c.	3 75
	do	1 " Spars,	3 75
	do	1 " do	4 50
	do	1 " do	4 00
	do	1 " do	6 50
	do	1 " Oars,	1 12½
	do	1 " Spars,	3 50
	do	1 " Stairs, &c.	1 00
	do	1 " Spars,	1 75
	S. B. Tuck	1 Bbl. and iron work,	8 25
	Levi Starbuck	1 Stove, &c.	4 25
	T. V. McCleve	1 Lot jugs, pots, &c.	2 50
	Levi Starbuck	1 Tool chest, &c.	2 75
	P. H. Folger	1 Lot table, &c.	3 25
	George Myrick	1 " Water casks,	1 25
	Vale. Hussey	1 " T. sail,	11 75
	do	1 " Sail,	8 50
	do	1 " do	15 00
	do	1 " do	10 25
	do	1 " do	13 00
	do	1 " do	3 12½
	T. V. McCleve	1 " do	3 50

136

Sale Continued.

	Vale. Hussey	1 Lot Sail,	10 00
	do	1 " do	10 00
	do	1 " Tarpaulin and spars,	3 50
	J. Austin	1 " Old sail,	2 50
	Vale. Hussey	1 " Sail,	19 00
	do	1 " do	1 87½
	J. Austin	1 " do	3 87½
	J. N. Bassett	1 " do	5 75
	V. Hussey	1 " do	34 00
	T. V. McCleve	1 " do	5 87½
	V. Hussey	1 " do	13 75
	Elihu Swain	1 " Hhds. and bbls.,	80
	do	1 " 5 bbls. at 50 cts.,	2 50
	George Myrick, junr.	2 Chairs at 12½	25
	J. N. Bassett	1 Lot old sail,	66
In town,	G. Myrick	1 Ham and cask,	1 10
April 9,	T. Mayhew, jr.	1 Lot beef, &c.	1 85
	Jos. Chase	1 Log line,	47
	Thos. Mayhew, jun.	1 Hand lead and line,	65
	Wm. Coffin	1 Deep sea, do	3 30
	Jos. Coleman	1 Compass,	3 85
	Wm. E. Starbuck	1 do	60
			$549 40

Dr. Agent of Brig Sarah Ann of Hampton (Me.) wreck, in account with Starbuck & Co.

1828.	Check,	500 00	By gross sales of wreck		
	Advertising,	1 00	and appurtenances		
	Going to Brig to sell	2 00	per account,	549 40	
	Govt. duty on 127½ per cent,	63			
	" " 422 40 at 1 per cent.	4 22			
	Comms. on 549 40 at 4 per cent.	21 98			
	Balance per new acct.	19 57			
		$549 40			$549 40

E. E. Nantucket, May 9th, 1822.

A true copy,

STARBUCK & CO.

Answer to the Direct Interrogatories.

Answer to the 1st. My name is Paul West; my age fifty-four years, my profession a master mariner.

Answer to the 2d. I am not acquainted with the plaintiffs, but I have some acquaintance with Philip H. Folger, Valentine Hussey, Francis F. Hussey, and Samuel B. Folger.

Answer to the 3d. I saw her on the shore, and was on board of her only a few hours before she was gotten off.

Answer to the 4th. I saw her when she first got on shore.

Answer to the 5th. I saw her only when she first got on shore, and on the day she got off.

Answer to the 6th. I had nothing to do with her.

Answer to the 7th. I considered her situation very dangerous; not having been there when the efforts were made, I am not able particularly to state what efforts were made.

Answer to the 8th. To the best of my recollection, George Myrick, jun.

Answer to the 9th. I don't know.

Answer to the 10th. Very much exposed indeed. They are particularly southerly and southwesterly winds. Storms and gales of wind are frequently violent at that season.

Answer to the 11th. I do not r ecollect particularly about the weather, while the brig lay on shore.

Answer to the 12th. I was not on board, nor on the shore during any bad weather.

Answer to the 13th. If a strong southerly or southwest wind had arisen, the brig undoubtedly would have gone to pieces.

Answer to the 14th. I do not know.

Answer to the 15th. I do not know.

Answer to the 16th. I did not see the brig at the time of sale, but when about getting her off I was on board her, and at that time would not have given one hundred dollars for her.

Answer to the 17th. She was got off, and it appeared to me by Philip H. Folger, Valentine Hussey, and others.

Answer to the 18th. She was brought round into the harbor.

Answer to the 19th. The brig was repaired and refitted here, but I do not know by whom.

Answer from the 20th to the 24th inclusive. I know nothing of the expenses.

Answer to the 25th. In my opinion the conduct of the captain was perfectly judicious in making sale of her and her equipments in the manner he did.

Answer to the 26th. It is my opinion, if the purchasers of the brig had not floated her on the full tide that they did, she never would have been gotten off the beach, but would have gone to pieces, as before the next full sea, there was an high southerly wind and an heavy sea breaking on that part of the island.

Answer to Cross Interrogatories.

Answer to the 1st. I did not.

Answer from the 2d to the 4th inclusive. I do not know.

Answer to the 5th. I went to the vessel the next day after she got on

shore. I do not recollect what time in the day. I rode in a chaise with a lady.

Answer to the 6th. There was not much done at that time.

Answer to the 7th. I don't know.

Answer to the 8th. I don't recollect particularly about the weather while she lay there.

Answer from the 9th to the 16th inclusive. I don't know.

Answer to the 17th. No.

Answer from the 18th to the 38th inclusive. To these questions I can give no direct answers.

Answer to the 39th. I saw the brig Pearl on shore. I do not recollect in what year. It was late in the year. I do not know who got her off. The distance on the beach between the two wrecks I judge about five miles.

Answer to the 40th. At present no one besides the magistrate; Charles K. Whitman has been present part of the time. I have not seen the questions, and my answers have been written by no one before this time.

Answer to the 41st. I have intended to state nothing positively, except from my own knowledge.

Answer to the 42d. I was on the beach the day after stranding, but was not requested to go by any one.

Answer to the 43d. I observed the vessel was in a bad situation, and did not think she would ever come off. I made no estimate of any expense, but considered her lost.

Answer to the 44th. I don't know any thing of it.

Answer to the 45th. I don't know.

Answer to the 46th. I had no agency; and don't know.

Answer to the 47th. I don't know.

Answer to the 48th. I don't know—did not assist.

Answer to the 49th. I think she could not with any safety have been secured while notice could have been given.

Answer from the 50th to the 52d inclusive. I don't know.

Answer to the 53d. I do not recollect any thing further material in the case.

Answers to additional Direct Interrogatory.

Answer to 27th. I don't know.

Answer to further Direct Interrogatories.

Answer 28th. Having no memorandum, I cannot say; but it is my opinion the major part of the vessels stranded on the south side of this island have gone to pieces.

Answer 29. I saw the brig Pearl while her cargo was discharging; she then lay in the breakers.

Answers to further Cross Interrogatories.

I do not pretend to state the proportion; and have no means to enable me to answer this question.

Nantucket, May 10th, 1832.

PAUL WEST.

Deposition,	$5 00
Deponent's fee,	58
	$5 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this tenth day of May, in the year of Lord one thousand eighteen hundred and thirty-two, personally appeareth Paul West, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

MATTHEW MITCHELL.

Answers to the Direct Interrogatories.

Answer to the first. My name is Matthew Mitchell; my age is thirty-two years. I am a merchant.

Answer to the second. I am acquainted with Philip H. Folger, Valentine Hussey, and Francis F. Hussey.

Answer to the third. I remember the brig Sarah Ann being on shore about that time. I saw her on the beach.

Answer to the fourth. After she had been on shore some days, as near as I can recollect.

Answer to the fifth. I do not remember seeing her more than once.

Answer to the sixth. I did not work upon her.

Answer to the seventh. The brig lay in the surf, on the shore. I do not know what efforts were made to get her off.

Answer to the eighth. I do not remember.

Answer to the ninth. I do not know.

Answer to the tenth. The place where the brig went on shore is much exposed to the influence of the wind and sea. Storms are frequent at Nantucket at that season of the year, and often violent.

Answer to the 11th. I do not remember.

Answer to the 12th. I did not go on board her or near her during the storm.

Answer to the thirteenth. I cannot answer.

Answer to the fourteenth. The brig and her apparel were sold at Nantucket. The sale was made near the wreck, by auction; I do not know by whose order. There were many persons present. I do not know in what manner the sale was advertised. It appeared to be conducted as other public sales are conducted.

Answer to the 15th. I cannot remember the names of all the purchasers; of the number were P. H. Folger, Valentine Hussey, Samuel B. Tuck and Charles Bunker. I do not remember the prices.

Answer to the sixteenth. One hundred dollars. I am not however conversant with such cases.

Answer to the 17th. The brig was gotten off, and I believe by Philip H. Folger and Valentine Hussey and the other purchasers. I cannot remember at this time who they were, excepting those named in my answer to the fifteenth interrogatory.

Answer to the 18th. She was carried to Nantucket harbor; there refitted, and thence I believe to Boston.

Answer to the 19th. She was repaired under the direction of Valentine Hussey. I do not know who was engaged with him, nor at whose expense it was done.

Answer to the 20th. I do not know.

Answer to the 21st. I cannot answer it. I know nothing of the matter.

Answer to the 22d. I do not know that the defendants are owners in the wharf to which the brig was taken. I do not remember what is charged for dockage.

Answer to the 23d. I think Valentine Hussey superintended the repairing of the brig.

Answer to the 24th. I know nothing of the subject.

Answer to the 25th. I should think it was judicious and prudent to sell her in the manner he did.

Answer to the 26th. I do not.

Answer to the Cross Interrogatories.

Answer to the 1st. I did not undertake to act as wreck-master.

Answer to the 2d. I do not remember.

Answer to the 3d. I do not know.

Answer to the 4th. I do not know.

Answer to the 5th. I was there on the day of the sale; I went with Benjamin Gardner 4th in a chaise; I think it was in the forenoon. There were many persons there.

Answer to the 6th. I do not remember what was done; her cargo I believe was all out. I did not go on board.

Answer to the 7th. I do not know.

Answer to the 8th. I do not remember concerning the weather at that time.

Answer to the 9th. I know nothing of this subject.

Answer to the 10th. I know nothing of the attempts to get her off previous to her being sold.

Answer to the 11th. I do not know.

Answer to the 12th. The vessel was gotten off after she was dismantled; but I know nothing particular in relation to it.

Answer to the 13th. I do not know.

Answer to the 14th. I do not know.

Answer to the 15th. I do not know.

Answer to the 16th. I do not know.

Answer to the 17th. I bought a share, I think it was a tenth part, of Charles Bunker, who was one of the first purchasers. I sold before any attempt was made to get her off, to Francis F. Hussey.

Answer to the 18th. I do not know.

Answer to the 19th. I do not know.

Answer the 20th. I gave no advice in, and know nothing of the matter.

Answer 21. It was fair weather when I went to the vessel. I do not remember the state of the weather the remainder of the day.

Answer to the 22d. I had no authority in the case.

Answer to the 23d. The sails and rigging were on the shore when sold. I do remember in what condition.

Answer to the 24th. I do not know; I heard of none.

Answer to the 25th. I was not.

Answer to the 26th. I do not know.

Answer to the 27th. When I saw her, which was at the time of sale, she lay, I think, broadside to the shore, with some motion from the sea. The weather was pleasant while I was there; further I do not remember.

Answer to the 28th. I do not know.

Answer to the 29. I believe there were no rocks where she went on shore. I do not know whether she was sheathed or not. The surf beat round her.

Answer to the 30th. I do not know.

Answer to the 31st. I do not know.

Answer to the 32d. I do not know.

Answer to the 33d. I cannot describe the weather at that time.

Answer to the 34th. I do not know.

Answer to the 35th. I do not know.

Answer to the 36th. She was repaired and taken away from Nantucket, and I understood was taken to Boston; but I do not know to whom she was sold, nor for how much.

Answer to the 37th. I know nothing on this subject.

Answer to the 38th. I do not know what is the usual price of labor under the circumstances of this case. I had no agency in landing her cargo.

Answer to the 39th. I know that the brig Pearl was cast on shore at Nantucket about four miles from the place where the Sarah Ann was wrecked, but the time when and by whom she was gotten off I do not remember.

Answer to the 40th. No one except the magistrate. I was employed by him to write down the answers to these questions made by George Myrick, jr., when the interrogatories were read in my presence. My answers or the testimony I could give in the case have never been written down before this time.

Answer to the 41st. My answers have been made from my own knowledge.

Answer to the 42nd. I was not.

Answer to the 43d. I noticed her situation, and thought at first she might be gotten off without great expense, and under that consideration I bought of Charles Bunker his share in her; but on further consideration of her situation, the expense of transporting the necessary materials from town, the chance of storms in which she might go to pieces or become so much injured as to render it impossible to get her afloat, I thought it best to abandon the undertaking, and I sold to Francis F. Hussey for an advance of two dollars on the price I paid.

Answer to the 44th. I do not know.

Answer to the 45th. I do not remember.

Answer to the 46th. I had no agency in the matter, and I do not know why they were not transported.

Answer to the 47th. I do not know.

Answer to the 48th. I do not know what time was employed in getting off the vessel. I did not assist in it.

Answer to the 49th. I think she could not have been secured as stated in the question, but in a severe storm must have gone to pieces, or been so much injured as to have rendered it impossible to get her off. I do not know whether the shore is bold or not. I understood at the time it was not. The sand I should not think very hard.

Answer to the 50th. I do not know.
Answer to the 51st. I do not know.
Answer to the 52nd. I do not know.
Answer to the 53d. I do not.

Answers to additional Direct Interrogatories.

Answer to the 27th. I have no knowledge of this matter.

Answer to further Direct Interrogatories.

Answer to the 28th. I am unable to give any statement, but I should think the proportion was very small.
Answer to the 29th. I was never very near her.

Answer to further Cross Interrogatories.

I am not able to give any statement in answer to these questions.
Nantucket, May 10th, 1832.

MATTHEW MITCHELL.

Deposition	$5 00
Deponent's fee	58
	$5 58

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeared Matthew Mitchell, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and affirmed in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending int he circuit court of the United States next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh solemn affirmation to the truth of the foregoing answers to the interrogatories put to him, and subscribed the same in my presence.

M. T. MORTON. Jus. Pacis.

UNITED STATES OF AMERICA, *Massachusetts District, ss.*

On this seventh day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth George Myrick, jr., before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the annexed answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers of Deponent to the Direct Interrogatories.

Answer to the first interrogatory. My name is George Myrick, jr. I am forty-two years of age, and am a merchant.

Answer to the second. I am acquainted with the defendants, Philip H. Folger, Valentine Hussey, Samuel B. Folger and Francis F. Hussey.

Answer to the third. I remember the brig Sarah Ann, and saw her on shore.

Answer to the fourth. I saw her about 9 o'clock the 23d of March.

Answer to the fifth. I saw her every day while she lay on shore until she was sold, but cannot say how many times.

Answer to the sixth. I worked upon her; procured purchases from town; winding tackle, falls and blocks, and carried them on board the brig; got the cables and anchors out on the larboard quarter of the vessel; put the purchases on and hove tight to get the vessel afloat; hove tight and made fast; hove the deck load of plank off, and took a lighter load of shrub and rice. The weather at this time was pleasant, and had it continued until full sea, the vessel would have gone afloat and all been well; but it was not so meant, as the tide began to flow, the wind increased to a gale, and the brig drove up so that we walked round her the next low water, and we then commenced saving sails, rigging, and landing the cargo. I was employed by George Myrick.

Answer to the seventh. When first discovered she lay head on nearly. They procured a smack and got her alongside, and got out a cable and anchor; put on the purchases, and used the efforts stated in the answer to the sixth interrogatory. They made every exertion to get the vessel afloat; I mean the crew and persons employed from the shore. The efforts they made were in my opinion judicious and proper. If the vessel had been mine, I could not have done differently.

Answer to the eighth. George Myrick, Benjamin Worth, Tristram Barnard, Silvanus Coffin, and George Myrick, jr. and Andrew Brock.

Answer to the ninth. He did, and proceeded as stated in the answers to the sixth and seventh interrogatories. The measures that he made use of were judicious and proper in my opinion.

Answer to the tenth. The place where the brig was wrecked is much exposed. The night after she came on shore, our island was visited with a severe storm.

Answer to the eleventh. There was a storm which commenced the night after the brig was wrecked, about eleven o'clock, and continued about twelve hours.

Answer to the twelfth. I was at the shore near the brig; did not go on board; it was impossible.

Answer to the thirteenth. The brig would not have gone to sea, as the wind was on shore; but in my opinion it would have injured her much, as she now lay with her bilge against the sand.

Answer to the fourteenth. I believe they were sold by the order of the master. The sale was made at the head of the Hummock pond. It was a sale by auction. There was much company present at the auction. I cannot say in what manner it was advertised. It was conducted as other public sales are conducted.

Answer to the fifteenth. I know a few who purchased, but cannot mention all their names; I think Philip H. Folger, Charles Bunker, Valentine

Hussey and Brothers. I do not recollect what price was given. I should think there were thirty purchasers of the equipments. Thos. V. McCleve, myself, and others not recollected. The prices I do not know.

Answer to the sixteenth. In the situation in which the brig lay, I think she was worth sixty dollars.

Answer to the seventeenth. She was gotten off, I believe, by Philip H. Folger and others.

Answer to the eighteenth. She was brought into Nantucket harbor, put in repair, and I believe sent to Boston.

Answer to the nineteenth. She was repaired and fitted for sea; I do not know by whose orders, nor at whose expense.

Answer to the twentieth. I do not know what was the expense of getting her off and repairing her.

Answer to the twenty-first. I know nothing of any expenses incurred.

Answer to the twenty-second. I know nothing concerning it.

Answer to the twenty-third. I do not know positively, but believe Philip H. Folger, and Valentine Hussey and Brother superintended the getting off and repairing the vessel.

Answer to the twenty-fourth. I know nothing of the expenses or commissions.

Answer to the twenty-fifth. I believe it was judicious and prudent in abandoning and selling the vessel in the manner that he did.

Answer to the twenty-sixth. I know of none.

Answers to the Cross Interrogatories.

Answer to the first. I did not act as a wreck-master, but was employed by George Myrick, who was one at that time.

Answer to the second. The cargo was southern pine plank, shrub, rice, cotton and pea nuts. There were a number of tierces of rice damaged, and a few bales of the cotton. I do not know the exact number.

Answer to the third. It was.

Answer to the fourth. About sixteen hours, being parts of two days. The weather was pleasant.

Answer to the fifth. I went there on Sunday, the 23d of March, at 9 o'clock in the morning. I went there in a horse cart alone. I there met with Captain Phillips alone on the beach. I asked him if he wanted any assistance, he replied he had employed an agent who had gone to town for men. I then left. On the road met George Myrick, the agent, returning to the wreck. He requested me to go to town and procure winding tackle, blocks and falls, and return to the wreck as soon as possible. I did so, and arrived at the wreck about noon. We then put the purchases on to the cable, and hove tight.

Answer to the sixth. We got the anchor out and purchases on, and hove tight, loaded a smack with rice and shrub, and landed the deck load of southern pine. I should think we took out about twenty casks of rice, and four hogsheads of shrub.

Answer to the seventh. We had the anchor out with winding tackle purchases on; did not start the anchor or vessel.

Answer to the eighth. There was a storm which commenced on the first day in the evening, and blew a heavy gale, so that the captain was anxious

for the safety of the crew, and let the purchases go, and the brig beat upon the shore, so that we walked round her the next low water.

Answer to the ninth. In the afternoon, after the gale, we saved the sails and rigging. There were, I should think, about twenty persons employed, and on the 25th we got the cargo all out.

Answer to the tenth. I believe there was no attempt made to get her off; after the cargo was all out I left her.

Answer to the eleventh. I believe the sails, rigging and spars were taken on shore on Monday afternoon, the day after the gale. The spars taken on shore were the lower yards, topsail yards, top gallant yards, topmasts and top gallant masts, main boom and gaff.

Answer to the twelfth. I believe there was no attempt made to get her off after she was dismantled and the cargo taken out.

Answer to the thirteenth. I do not know any thing about it.

Answer to the fourteenth. I cannot state how the wind was, but I believe the weather was moderate.

Answer to the fifteenth. I do not know.

Answer to the sixteenth. I do not know; I was not there.

Answer to the seventeenth. I was not concerned in the purchase of the vessel, nor were any of my relatives.

Answer to the eighteenth. I cannot recollect that he advised to the sale of the vessel. I did not act under any instructions from Captain Phillips, but was employed by George Myrick.

Answer to the nineteenth. Captain Phillips was, I should think, about fifty years of age, and an active seaman. He exerted himself very much on Sunday trying to get the vessel afloat.

Answer to the twentieth. I was not present after the cargo was discharged.

Answer to the twenty-first. I think there was a strong breeze from the southwest. The brig lay broadside to the shore, with her head to the westward. The weather was pleasant in the forenoon and overcast in the afternoon, according to my recollection. The vessel at full sea was rolling in the surf when she was sold.

Answer to the twenty-second. I had nothing to do with them.

Answer to the twenty-third. They were on shore about four miles from town, and I believe a watch was kept upon them until the day of sale. They were in as good order as could be expected from a wreck.

Answer to the twenty-fourth. I believe there was not. The sails, rigging and materials, I think, were sold before the vessel. I bought some of the rigging, and afterwards sold it to Valentine Hussey.

Answer to the twenty-fifth. I was not.

Answer to the twenty-sixth. I do not know.

Answer to the twenty-seventh. When first discovered on Sunday she lay nearly head on shore. After the gale she beat up broadside to the shore, and continued so after the cargo was discharged, until after the sale. She lay at the head of the Hummock pond, broadside to the shore, headed to the westward. It was not rainy; the sun shone I believe on first part of that day. In the afternoon it was hazy; the wind was southwest.

Answer to the twenty-eighth. I do not know when she was brought into Nantucket, nor any of the other particulars, not being interested.

Answer to the twenty-ninth. There were no rocks. I believe she was

not sheathed. The water came round her at full sea, but she was dry at low water.

Answer to the thirtieth. I know nothing of this matter.

Answer to the thirty-first. I do not know.

Answer to the thirty-second. I do not know.

Answer to the thirty-third. I do not recollect that there was any storm from the time of her discharge until she was brought into Nantucket harbor.

Answer to the thirty-fourth. I do not know.

Answer to the thirty-fifth. I do not know any thing of the business.

Answer to the thirty-sixth. I believe she was taken to Boston, and understood she was there sold. I do not know to whom, nor for how much.

Answer to the thirty-seventh. I know nothing of this matter.

Answer to the thirty-eighth. I employed no one. The price of labor depends on the situation that the persons are in. I have paid five dollars for ten minutes, labor. The usual price of labor about town is above a dollar and a dollar and a quarter per day, but on wrecks from two dollars to five.

Answer to the thirty-ninth. I do know that the brig Pearl was cast on shore on Nantucket; I believe it was in the winter. I do not know by whom she was got off, but by a company from the continent. The distance from the place where the Sarah Ann was wrecked is about five miles.

Answer to the fortieth. Besides the magistrate, Barker Burnell, Charles Bunker and Matthew Mitchell, the latter writing for the magistrate. The questions have not been shewn me before my being called on to answer them. No answers have been written down for me to sign before going before the magistrate. My testimony has never been reduced to writing before this time.

Answer to the forty-first. In my answers to the direct interrogatories, the facts I have stated were from my own knowledge, and not from the information of others.

Answer to the forty-second. I was on board the vessel the first day that she was on shore, by the request of George Myrick. I was on board again on Monday afternoon and on Tuesday. On Monday forenoon it was impossible to get on board of her.

Answer to the forty-third. I did not take any particular notice of the vessel, or calculate the expense of getting her off.

Answer to the forty-fourth. I know nothing of it, as I was not interested.

Answer to the forty fifth. I cannot recollect; but I believe they were not.

Answer to the forty-sixth. I had nothing to do with them.

Answer to the forty seventh. I do not know.

Answer to the forty-eighth. I do not know what time was consumed in getting off the vessel; I did not assist.

Answer to the forty-ninth. She could have been secured to the shore with cables and anchors; and if she had not have gone off, in two days more, in my opinion, she would have been all to pieces. Where she lay was a sandy beach, and bars without her. The sand was continually shifting around the wreck by the heave of the sea.

Answer to the fiftieth. I know nothing of the contract.

Answer to the fifty-first. I do not know.

Answer to the fifty-second. I believe he was present at the sale.

Answer to the fifty-third. I do not.

Answer to additional Direct Interrogatory.

Number twenty-seven. I do not know.

Answer to further Direct Interrogatories.

28. One-thirtieth, I should think.

Answer to the twenty-ninth. The brig Pearl lay at the Forked Ponds, high up, out of the reach of the breakers.

Answer to further Cross Interrogatories.

I can answer only by saying that since the year 1823 I have acted as wreck-master and agent for stranded vessels and vessels otherwise in distress; and by reference to my memorandum I can state the fate of the following vessels stranded on the shores of this island and Tuckanuck, that came under my care, viz:

Sch. Cashier—Wrecked on the west end of Tuckanuck in April, 1823. Hull and effects sold at auction; vessel got off in the summer.

Brig Pearl—Wrecked at the Forked Pond, Jan. 4, 1825. Vessel got off in summer by a company from the continent.

Brig Clio—Wrecked about one and an half mile to the west of the Pearl. Hull and effects sold at auction. Hull came to pieces Nov. 3d, 1825.

Sloop Ranger—Wrecked on Cortee, December 14, 1825. Hull and effects sold at auction. Hull came to pieces.

Brig Rapid—Wrecked on the shoals of Smith's Point, Nov. 29, 1826. Cargo discharged and brig got afloat.

Brig Francis Miller—Wrecked Nov. 1827 at Squam Head. Hull and effects sold at auction. Hull in good order; came to pieces in a few days after sold.

Brig Packet—Wrecked December, 1828. Hull came to pieces. Effects and remnant of hull sold at auction.

Brig Ann Eliza—Wrecked at the head of Long Pond, February 27, 1829. Hull and effects sold at auction. Hull came to pieces.

Schooner Ranger—Wrecked at the head of the harbor, March 27th, 1829. Hull and effects sold at auction. Hull came to pieces.

Schooner Ann—Wrecked at the head of Squam Pond, March 27th, 1829. Hull and effects sold at auction. Hull came to pieces.

Sloop Louisa—Wrecked on Cortee, Dec. 7th, 1830. Hull and effects sold at auction. Hull came to pieces.

Schooner Hannah and Mary—Wrecked on Great Point, April 7th, 1831. Hull sold at auction and broke up.

Brig William and Henry—Wrecked at Smith's Point, February 7th, 1832. Hull and effects sold at auction. Hull came to pieces.

The size of the above mentioned vessels, their ages, the places they were from and where bound, the various means employed to get them off, by whom they were got off, whether the owners were present or advising respecting getting them off, and the expenses actually paid in getting them off, I am not able to state.

I did purchase the sloop Ranger after she was wrecked, for fifteen dollars, and gave her out for the iron. The brig Francis Miller remained several days after she was sold at auction before she bilged.

In answering the 43d cross interrogatory I say: "I did not take any par-

ticular notice of the vessel," on reflection I wish to correct it by answering that when I arrived at the wreck the second time, which was about noon on the 23d March, I was requested by Captain Phillips and George Myrick to be one of the survey; and we recommended, if I recollect correctly, their lighting the vessel and heaving her off. We did not make any estimate of the expenses. After the cargo was landed the survey was called the second time, and recommended to the captain and agent to have the hull and effects sold at public auction for the benefit of whom it might concern.

In further answer to the 16th direct interrogatory, I wish to say that I attended the sale of the wreck of the brig Sarah Ann for the purpose of purchasing her, but she sold for more than I was disposed to give.

Nantucket, May 7th, 1832.

GEORGE MYRICK, Jr.

Deposition - - -	$10 00
Deponent's fees, 3 days -	1 58
	$11 58

Answers to the Direct Interrogatories.

Answer to the 1st. My name is George Myrick; my age is sixty five years. My profession or business was that of a mariner in early life, at present that of a merchant.

Answer to the 2d. I have a short acquaintance with John Crosby, and am intimately acquainted with Philip H. Folger, Valentine Hussey and Francis F. Hussey from their youth.

Answer to the 3d. I do remember the brig Sarah Ann being on shore on this island, and saw her.

Answer to the 4th. On the morning of the 23d of March, 1828.

Answer to the 5th. On the 23d, 24th, 25th, 26th, 27th, and 28th and 29th of March.

Answer to the 6th. I did work upon her. I was employed by John Phillips, her master, who called on me and wished assistance. I met Captain Phillips on the 23d at 9 o'clock in the morning coming into town, with a Mr. Crocker who informed Captain Phillips who I was. He requested me to come into town and get him nine men, and purchase winding tackle, blocks and falls, which I ordered to be done. The captain returned to the brig, and employed a smack to get his bow anchors. I returned to the brig with the men, and purchases came directly after.

Answer to the 7th. The brig lay headed on shore in eight feet water, just without the surf. I then went on board of her and assisted with the men in getting out the anchors and putting on purchases, and back'd the chain anchor with the kedge, and hove tight on the purchases. Then hove off all the plank from the deck and landed them on shore. Took the smack alongside; put on board eighteen tierces of rice and two hogsheads shrub, which was all the smack would take. Night coming on, I could not prevail with any of the islanders to stay on board during the night, from the dangerous situation the vessel was in, in case of an on shore wind. Captain Phillips and his crew agreed to stay. At twelve o'clock at night there came on a storm from the southeast. At day light in the morning I procured three other men and went to the brig and found they had let go the purchases

and let go the cables, and the vessel had beat several times her length from where I left her, and to the westward a cable length or thereabouts, and laying in the surf with a very heavy sea on—with difficulty we hove a hand lead and line on board and hauled a rope on shore; the other end was made fast to the fore-yard. Captain Phillips sent on shore a hogshead containing his clothing, money, quadrant, &c., by a hauling line. Captain Phillips was hoisted nearly to the fore-yard, and was drawn on shore through the surf, and came near drowning. I was very anxious to get the crew on shore, but they declined coming. We then brought the captain to town. I returned to the brig in the afternoon, and requested the men to come on shore; but the wind had moderated. The vessel lying still they remained on board until next morning, when they came on shore. The brig now laying partly broadside to the shore, her stern in the surf, and dry to the fore-chains; her cables, anchors and purchases being gone, and lying back of the surf, and no possibility of getting them,—no means remained of making further efforts to get her off. The means and efforts used to get the vessel off were in my opinion judicious and proper.

Answer to the 8th. I was one of them. Tristram Barnard and George Myrick, jr., were others that I recollect.

Answer to the 9th. The means used to get the vessel off, as stated in my answer to the 7th interrogatory, were made under my direction as agent for Captain Phillips.

Answer to the 10th. The place where the brig lay is much exposed to wind and sea. Storms are frequent and severe here in the spring, and sometimes violent.

Answer to the 11th. There was. It begun at 11 o'clock at night on the 23d of March, and continued till the afternoon of the 24th, when it began to subside.

Answer to the 12th. I was twice at the beach on the 24th, during the storm, but could not go on board.

Answer to the 13th. If another such a storm had arisen, she must undoubtedly have gone to pieces.

Answer to the 14th. The hull, tackle and apparel of the brig were sold at Nantucket, by order of the master. The sale was made on the beach where they were landed, by auction. There were more people at the auction than usually attend on such occasions. The sale was advertised in several public places by the auctioneer, and conducted in the usual manner. The tackle and appurtenances were sold in small lots.

Answer to the 15th. Valentine Hussey and others purchased the brig, and I believe they gave one hundred twenty-five dollars for her. Her equipments were sold to Joseph Starbuck, George Myrick, jr., Valentine Hussey, Philip H. Folger and others, and by reference to my accounts with the brig as agent, I find her credited with $519 57, as received from the auctioneer.

Answer to the 16th. I should not have been willing to have given what she sold for.

Answer to the 17th. She was gotten off by Valentine Hussey, Philip H. Folger and others.

Answer to the 18th. Brought into the harbor of Nantucket.

Answer to the 19th. I don't know.

Answer to the 20th. I don't know.

Answer to the 21st. I know nothing of expenses.

Answer to the 22d. I know nothing about it.

Answer to the 23d. I do not know.

Answer to the 24th. I make no statement of expenses.

Answer to the 25th. I deemed it prudent to sell the brig, considering her perilous situation, lying wallowing in the surf, and I believe no other company belonging to the island could have got her off, for Mr. Philip H. Folger had purchase blocks made that would take an eight inch fall, and other materials that were necessary prepared to get off one of his ships that had been ashore on the north side of this island.

Answer to the 26th. I know nothing further that may be useful to the defendants.

Answers to Cross Interrogatories.

Answer to the 1st. I acted in this case as agent for Capt. Phillips, by his verbal request. Wreck-masters take no cognizance of wrecked property where there is a legal representative living.

Answer to the 2d. The cargo consisted of rice, cotton, shrub, peanuts, southern pine plank, and money. I cannot say now what proportion was damaged, but it amounted to about seven per centum on the value of the cargo, the money excepted.

Answer to the 3d. The injury of the cargo is as stated above. All the cargo saved in good order was sent to Boston, and the part that was damaged was sold at auction here.

Answer to the 4th. The men were employed in saving the cargo three days, and the weather the most part of the time good.

Answer to the 5th. I went to the vessel on the 23d of March, and arrived on the beach about 11 o'clock. I went on horseback, and in company with Capt. George Prince, Shubael Worth, George Myrick, jr., Joseph Fisher, Robert Coleman, Henry B. Fisher, Thomas King, William Dunham, Jabez Cushman, and William Randall.

Answer to the 6th. They were employed in endeavoring to get the vessel off, taking out plank, and putting 18 casks and 2 hhds. shrub on board the smack.

Answer to the 7th. Her anchors were carried out and backed by the kedge, and winding tackle purchases put on and hove tight, as much as they would bear without fetching the anchors home. The purchases did not arrive until the tide had ebbed, otherwise, in my opinion, she would have come off. We started the anchors, and thought it not proper to heave harder. Every exertion was made by the captain and crew and hired man.

Answer to the 8th. There was a storm, and it continued sixteen hours. The vessel beat up on the shore, but received no material injury.

Answer to the 9th. We began taking out the cargo from the hold on the 25th of March. Twenty-seven men were employed in discharging the cargo and getting it up bank for three days, as near as I can now ascertain.

Answer to the 10th. There were no attempts made to get the vessel off after the cargo was discharged, because we had no means. The cables and anchors and purchases were left back of the surf, and could not be regained.

Answer to the 11th. The sails and rigging were taken on shore on the 25th, her main and fore-yards, topsail and topgallant-yards and gib-boom were all the spars I recollect to have been taken on shore.

Answer to the 12th. There was not, for reasons above given.

Answer to the 13th. Nothing was done to the vessel.

Answer to the 14th. The weather was pleasant until a few hours after the vessel was gotten off, when the wind came on and blew fresh. Had she remained on shore a few hours longer, I have no doubt but she would have gone to pieces. I cannot answer how the weather was from this time till she got into the harbor.

Answer to the 15th. She did not. She hove round and laid in the surf broadside to the shore.

Answer to the 16th. I cannot say because I left her after she was sold, and saw her but once before she was off.

Answer to the 17th. Neither myself or either of my relations were interested to my knowledge, directly or indirectly, in the wreck before or after the sale.

Answer to the 18th. Captain Phillips ordered the sale, otherwise she would not have been sold. I acted under him by his verbal request.

Answer to the 19th. I know not his age. He conducted like an honest, sober man, and used every exertion to get the vessel off. He complained some of the rheumatism in his shoulder, but was on deck all the time we were employed, aiding and assisting to get her off.

Answer to the 20th. No attempts were advised to get the vessel afloat after the cargo was discharged, for the reasons before stated.

Answer the 21st. The weather was very fine; a light wind from off shore, and the vessel lay in the surf, broadside to the shore.

Answer the 22d. I could have sent them, and asked Captain Phillips if he wanted to have them sent. The sails and rigging were old and much worn,—the jib much blown to pieces; and the transportation to town, and expenses to Boston, would have amounted to nearly the whole value of them; and it was his opinion they would net as much or more to have them sold where they were than they would in Boston. And I considered he was correct in his opinion.

Answer to the 23d. The sails and rigging were on shore when sold. They were not in a place of safety, because they were on the beach, but could have been transferred at considerable expense to a place of safety, if the captain had wished it. It was my opinion they would sell better there than in town, as a great many gentlemen would ride out to attend the sales that would not in town.

Answer to the 24th. There was no improper understanding, calculation, or agreement, directly or indirectly, to my knowledge, in relation to the sale of this vessel and her materials.

Answer to the 25th. No, I was not; and had no information from any agent or person concerned until after the sale had taken place.

Answer to the 26th. The sale of the vessel was not determined on before sending to Boston. The news of her stranding was sent to Boston immediately after Captain Phillips landed; but before any answer was received, the brig and materials were sold. The sale was determined on by the captain.

Answer to the 27th. The vessel lay head on shore when I first saw her; and after the cargo was taken out, she lay broadside to the shore in the surf. She lay a short distance west-southwest from the head of the Hummock pond. The sun shone, and the wind was from off shore in the forepart of the day. In the afternoon there was a small wind from the southwest.

Answer to the 28th. I cannot recollect on what day the vessel got into

144.

the wharf. I know nothing of the condition of her after she came to the wharf.

Answer to the 29th. There were no rocks, to my knowledge, where the vessel went on shore. I cannot be positive, but believe she was sheathed. I cannot say what injury the sheathing received, as I did not see her bottom. At times she lay high and dry as far as the main-chains. The turn of the tide would cut away the sand, and leave her in the wash of the surf.

Answer to the 30th. The hull and materials attached at the time of sale I think were sold for $125. The other materials must have brought $394 57, as the gross amount that I find the brig credited with was $519 57. I cannot state the account of sales and purchases as rendered by the auctioneer, because that, with all the papers appertaining to the Sarah Ann, were sent on to the owners of the cargo and underwriters, by order of Captain Phillips.

Answer to the 31st. The anchor and part of the chain only has been recovered since the brig was sold. The anchor was sold, and the chain remains on hand. The kedge has also been saved, and part of the hawser. The kedge sold, and the hawser is now on hand.

Answer to the 32d. The net proceeds of the whole vessel and materials, in the first instance, was $333 09, which amount was remitted to the President of the New England Insurance Company, by order of Captain Phillips, which amount the President refused to receive. The anchors since sold produced $74, which, with the first mentioned sum of $333 09, now remains in my hands.

Answer to the 33d. There was no storm after the brig was discharged until after she got off.

Answer to the 34th. I cannot say.

Answer to the 35th. Agents came here, but I cannot say what their offer was.

Answer to the 36th. I have no personal knowledge of these facts.

Answer to the 37th. I do not know.

Answer to the 38th. The wages of men employed on wrecks at that season is from 2 to 4 dollars per day, as the danger and situation the wreck may be in. I paid the men employed by me on this wreck $2 50 per day, and men employed in watching $2 per night. I employed Elisha Brown, Enoch Goreland, John Smith, Francis Galen, Sam'l Fobler, Joseph Gorham, Geo. Prince, Shubael Worth, Joseph Fisher, Robert Coleman, Henry B. Fisher, Solomon Lovell, Thomas King, Kimble Coffin, William Dunham, William Ransdell, Reuben Ray, James Allen, Geo. Myrick, jr., and Eb'nr Dunham, and others.

Answer to the 39th. I do know the brig Pearl was on shore sometime in January, 1825. She was got off by a company that came to the island for that purpose. She was on shore near the Forked pond, so called; distance from where the Sarah Ann lay, about five miles.

Answer to the 40th. No persons have been present while giving this deposition besides the magistrate and Christopher B. Hussey and Charles K. Whitman, each assisting him in writing. The questions have not been shown me, nor any answers been written before going before the magistrate; neither has my testimony before been reduced to writing.

Answer to the 41st. All the facts I have stated in my answers to all the preceding interrogatories are from my own knowledge, and not from information of others.

Answer to the 42d. I was on the beach every day from the 23d to the 28th March, inclusive; and on board the vessel each day except the 24th, and at the request of Captain Phillips.

Answer to the 43d. I did take particular notice of the vessel, but did make no particular estimate of what the probable cost would be; but it was my opinion that it would cost more to get her off than she would sell for when off.

Answer to the 44th. I know nothing of any agreement, or on what terms they contracted to have her got off, or whether the persons who assisted volunteered or not. After she was sold I left her.

Answer to the 45th. I cannot positively say, but believe not.

Answer to the 46th. Because it was thought they would bring more on the beach where they lay than they would in town, after paying for the transportation, as truckage across land was very high.

Answer to the 47th. The anchors lay back of the surf, and were not to be come at at that time. One chain anchor was taken up by a smack, together with a kedge and hawser, sometime after the vessel got off. The bower cable and anchor, with all the purchases and part of the chain cable, lay in the sand back of the surf at this time, for aught I know.

Answer to the 48th. I cannot say. I did not assist.

Answer to the 49th. She could not have been secured in any way that I know of, to prevent her from going to pieces, in case a gale came on shore. There was no risk of her going to sea while the wind was off shore.

Answer to the 50th. There was no written or verbal agreement. They took her as she lay, taking the risk of title as well as all other risks. I know of no other title ever given in such cases, except the auctioneer's bill of parcels.

Answer to the 51st. No person acted as wreck-master under his commission, but I acted under the orders of Captain Phillips. No conditions were made except as before stated. The terms, cash in hand. The purchasers were Valentine Hussey, Philip H. Folger, and others concerned whom I do not know.

Answer to the 52d. He was every day at the vessel, and on the beach at the time of the sales.

Answer to the 53d. I do not know.

Additional Direct Interrogatories.

27th Answer. I saw the defendants fitting and rigging the vessel and using new cordage; to what amount I know not, nor what expense they were at for other equipments.

Further Direct Interrogatories.

28th Answer. I cannot exactly say what proportion. There has not been a brig or ship got off from the south and west seaboard of the island of Nantucket for twenty years before the Sarah Ann, except the brig Pearl.

29th Answer. The Pearl lay near Forked pond, so called; beat up over the sea wall, and out of the reach of the breakers.

Answer to further Cross Interrogatories.

By referring to my memorandum, I can state the names of vessels wrecked on the island, that I have had the care of as agent. They are:

145.

Sloop Nestor, wrecked March 14th, 1814, near the head of the Hummock pond; part of the cargo saved; hull, sails and rigging sold at auction; the vessel came to pieces.

Schooner Norkopping, July 7th, 1814, near Squam Head; cargo saved; vessel and materials sold at auction; vessel came to pieces.

Schooner Westwick, August 2d, 1814, near the head of the harbor; cargo saved; vessel and materials sold at auction; vessel went to pieces.

English brig Robert Todd, 300 tons, coppered, Nov. 1815, near Micomet pond; cargo consisted of 11,000 bushels salt; about 300 bushels saved; her sails and rigging were sold for 290 dollars; vessel came to pieces, and was totally lost.

Ship Cicero, Dec. 1818, got on Great Point Rip; remained there several days, and part of her cargo taken out while lying there; afterwards drifted off, and got on shore near Tuckanuck; principal part of the cargo saved in a damaged state; the remainder sold with the ship at auction. An unsuccessful attempt was made to get her off; the contractors lost $1800, and the ship came to pieces.

Schr. Urchin, in 1820, at Squam Head; the cargo saved; vessel and materials sold at auction. The vessel beat up above the range of the surf, and was got off the following summer.

Brig Indus, in 1824, got aground on our bar; cost the underwriters $607 94 to get her to the wharf.

Brig John Harris, of Portland, Sept. 8, 1828, came ashore on Smith's Point with a cargo of coal; master cut away her masts, sails and rigging; all lost in the surf. The Globe Office in Boston sent Captain Hart as their agent; and he ordered the brig and cargo sold at auction, and I bought her for 45 dollars. A few tons of coal was saved; vessel came to pieces, and the cargo lost.

Ship South America, got on the clift, and cost the underwriters $810 67 to get her to the wharf.

I was called on by the agent of the brig Packet, of Providence, that came ashore in Dec., 1828, near Miacoomit pond, to go along shore in my carriage to see if I could discover any cargo. I discovered nothing of consequence. I returned to the wreck and found her all to pieces; captain and all the crew lost, except the mate.

In further answer to the 47th cross-interrogatory I wish to state that, at the time of sales of the materials, Captain Phillips requested me to save the cables and anchors if possible, as they were valuable. Before I left the beach, Philip H. Folger came up with boat, men and spars. I requested him to make fast to the hemp cable, as it lay on the bar some distance to the eastward of the brig, and if it was in his power to take it up. He said he would if he could possibly get at it, for no other motive or purpose but to save the cable and anchor. He did not take it up.

Nantucket, May 10th 1832.

GEORGE MYRICK.

Deposition - -	$10 00
Deponent's fees, 3 days -	1 58
	$11 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth George Myrick, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and sworn, in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Macsachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh oath to the truth of the answers to the foregoing interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers to Direct Interrogatories.

Answer to the 1st. My name is Matthew Myrick. I am fifty-eight years of age, and by profession a ropemaker.

Answer to the 2d. I am acquainted with the defendants.

Answer to the 3d. I remember the brig Sarah Ann being on shore in the mouth of March, 1828, on the southwest part of this island.

Answer to the 4th. I do not recollect on what day I first saw her.

Answer to the 5th. I saw her but once.

Answer to the 6th. I did not work on her.

Answer to the 7th. I considered her situation dangerous—know not what efforts were made to get her off.

Answer to the 8th. I believe George Myrick, jr.

Answer to the 9th. I know of none.

Answer to the 10th. The place is very much exposed to wind and sea; and strong winds are frequent at that season.

Answer to the 11th. I am not able to state.

Answer to the 12th. I did not.

Answer to the 13th. I recollect no storm.

Answer to the 14th. The wreck and appurtenances were sold at Nantucket, by whose order I am not able to say. They were sold at public auction on the beach where she lay. There was not a large company present. The sale was publicly advertised, and conducted as auction sales usually are.

Answer to the 15th. I do not know.

Answer to the 16th. I consider one hundred dollars would have been the extent of what she was worth.

Answer to the 17th. She was gotten off. I don't know by whom.

Answer to the 18th. If I mistake not, she was carried to Edgartown first, and afterwards brought into this harbor.

Answer to the 19th. She was—and by the orders of Philip H. Folger, Valentine Hussey and Francis F. Hussey.

Answer to the 20th. I cannot say. I furnished cordage for her, but do not now recollect the amount.

Answer to the 21st. I am not able to make any statement.

Answer to the 22d. I don't know.

Answer to the 23d. I do not know who superintended getting her off. They personally attended the repairs.

Answer to the 24th. I have made no statement of expenses.

Answer to the 25th. My opinion is that it was prudent and expedient in the captain to sell her immediately as he did.

Answer to the 26th. I do not.

Answers to Cross Interrogatories.

Answer to the 1st. I did not.

Answer to the 2d. I do not know of what the cargo consisted, or what proportion was damaged.

Answer to the 3d. I don't know.

Answer to the 4th. I don't know.

Answer to the 5th. I went to the vessel but once, and do not recollect on what day that was, nor who was in company.

Answer to the 6th. I saw persons at work on board, whether landing cargo or not cannot say.

Answer *to* the 7th to the 16th inclusive. I know nothing of these matters.

Answer to the 17th. Some of my particular friends were interested in the purchase of the vessel. I never was myself, and don't know that any of my near relations were.

Answer from the 18th to the 26th inclusive. I am unable to answer these questions.

Answer to the 27th. When I saw the vessel—but once—she lay head on shore. I did not see her on the day of sale, and do not recollect how the wind or weather was on that day.

Answer to the 28th. I do not know.

Answer to the 29th. I cannot say whether there were rocks or not. I am not able to say whether the vessel was sheathed or not, nor what injury she received. She lay in the surf, with the water around her.

Answer from the 30th to the 38th. I am not knowing in these questions.

Answer to the 39th. I know she was. I do not know at what season of the year. She was afterwards got off, by whom I do not know. She lay about five miles easterly from where the Sarah Ann lay.

Answer to the 40th. The magistrate and Charles K. Whitman. I have not seen these questions. No answers have been written down for me to sign before I came here, nor my testimony reduced to writing.

Answer to the 41st. All I have stated has been from my own knowledge.

Answer to the 42d. I was there previous to the day she was sold, but do not recollect what day. I went at no one's request.

Answer to the 43d. I did.

Answer from the 44th to the 48th inclusive. I don't know any thing about these things.

Answer to the 49th. I think she could not. The shore is not bold. There is flat ground some distance off shore. I think the sand is not quick, but rather hard.

Answer to the 50th. I know nothing of it.

Answer to the 51st. I do not know.

Answer to the 52d. I do not know.

Answer to the 53d. Nothing occurs to me at present.

Answer to additional Direct Interrogatories.

Answer 27th. I furnished new rigging for the brig after she was pur-

chased and brought into the wharf. To what amount I am not able to say. I know nothing of her equipments.

Answers to further Direct Interrogatories.

Answer 28. I am not able to say.

29. She beat up in a heavy rage, so that the surf did not come up to her, except in stormy weather.

Answer to further Cross Interrogatories.

It is not in my power to state the proportion of vessels wrecked on this island, that have been gotten off. Within twenty years I have been concerned in the purchase of five or six wrecks. One of them, the brig Robert Todd, was not bilged when I purchased into her and did not bilge until two days afterwards. She lay about one and one half miles to the eastward from the place where the Sarah Ann lay. After we purchased her, we calculated on getting her off, she being a new vessel and lying head on shore upright. We then carried off a heavy anchor and cable; backed it well, and hove it tight. We then commenced lighting her, and took out and threw over 3000 bushels of salt, and before we could float her there came on a strong souther, and she went entirely to pieces in twenty-four hours, and her fragments were strewed for miles along the shore.

Nantucket, May 12th, 1832.

MATTHEW MYRICK.

Deposition	$5 00
Deponent's fee	58
	$5 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this 12th day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Matthew Myrick, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and affirmed in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh solemn affirmation to the truth of the foregoing answers to the interrogatories put to him, and subscribed the same in my presence.

M. P. MORTON, Jus. Pacis.

Answers to Direct Interrogatories.

Answer to the 1st. My name is Franklin Macy, aged twenty-five. My principal business is assisting Philip H. Folger in the capacity of clerk.

Answer to the 2d. I am not acquainted with the plaintiffs.

Answer to the 3d. I recollect the brig Sarah Ann was on shore about the time mentioned.

Answer to the 4th. I did not.

Answer to the 5th. I never saw her while on shore.

Answer to the 6th. I did not.

Answer to the 7th. I do not know.

Answer to the 8th. I do not know.

Answer to the 9th. I do not know.

Answer to the 10th. Storms and severe weather are frequent at Nantuckett in the spring of the year.

Answer to the 11th. I do not know.

Answer to the 12th. I did not.

Answer to the 13th. I do not know.

Answer to the 14th. I was not present at the sale, but saw her advertised to be sold at auction; and the bill of articles from Starbuck & Co. to P. H. Folger, and V. Hussey and Brother, handed to me at the time of making the settlement, warrants me in the belief that they were all sold at auction.

Answer to the 15th. Philip H. Folger, V. Hussey and Brother and several others, (as I heard at the time.)

Answer to the 16th. I do not know.

Answer to the 17th. I understood at the time the brig was got off by and under the direction of Mr. Philip H. Folger, and V. Hussey and Brother.

Answer to the 18th. She was brought into the harbor at Nantucket; repaired, refitted and sent to Boston.

Answer to the 19th. She was repaired and refitted for sea at the expense of V. Hussey & Brother, and Philip H. Folger.

Answer to the 20th. The expense of repairing, refitting and getting off were all included in one bill by the parties concerned, as appeared by the accounts of Mr. Philip H. Folger, and V. Hussey & Brother, delivered to me for the purpose of making a settlement between them. The cost of brig, repairs and outfits amounted to twenty four hundred and ninety four 67-100 dollars. Of this amount Philip H. Folger expended thirteen hundred and eighty-nine 73-100; the Messrs. Husseys eleven hundred and four 94 100. At the settlement, Messrs. V. H. & Brother paid me the balance due Mr. Folger, say one hundred and forty two 39-100 dollars. Oliver C. Gardner assisted on the shore; has an omitted bill of about seventy-five dollars, which I did not include in the settlement. From the accounts handed me, it appeared every article was bought at the lowest cash price.

Answer to the 21st. No charge was made by either of the owners for labor performed by those in their constant employ, or for carting to the shore or wharf; nothing charged by the owners for their own services.

Answer to the 22d. The wharf I believe did not belong to the defendants or either of them. The wharfage and dockage was all included in the bills. I do not recollect what the charge of wharfage was.

Answer to the 23d. Philip H. Folger and V. Hussey & Brother personally superintended the repairs and refitting. I was not on the shore while they were getting her off.

Answer to the 24th. It does not.

Answer to the 25th. I am not acquainted with the situation of the brig on the shore. I often heard it spoken of at the time. The attempt to get her off was considered by all (whom I heard express an opinion) as a hazardous undertaking.

Answer to the 26th. The brig was refitted, sent to Boston, and put in the care of Charles W. Cartwright & Co. merchants there for sales and returns. Was sold by them. The net sales rendered were twenty-seven hun-

dred and thirty-six 4-100 dollars. After the first purchase of the brig by the company, a part sold out to Hussey & Brother, and P. H. Folger, amounting to six hundred dollars, which was included in the bill of cost, &c.

Answers to the Cross Interrogatories.

Answer to the 1st. I did not.
Answer to the 2d. I do not know.
Answer to the 3d. I do not know.
Answer to the 4th. I do not know.
Answer to the 5th. I did not go to the shore.
Answer to the 6th. I do not know.
Answer to the 7th. I do not know.
Answer to the 8th. I do not know.
Answer to the 9th. I did not go to the shore.
Answer to the 10th. I was not present.
Answer to the 11th. I do not know.

Answer to the 12th. I was not present, but understood at the time that attempts were immediately made to get her off under the direction of Oliver C. Gardner and the purchasers of the brig.

Answer to the 13th. I was not at the shore.
Answer to the 14th. I do not know.
Answer from the 14th to the 36th. I was not present.

Answer to the 36th. She was brought into Nantucket harbor, refitted and sent to Boston in the care of Charles W. Cartwright & Co. and sold by them; the net sales rendered amounted to twenty-seven hundred and thirty-six 4-100 dollars.

Answer to the 37th. By the account furnished me by Philip H. Folger and V. Hussey & Brother for the purpose of making a settlement between the parties, it appeared the expense of getting the brig off, cost of brig, repairing and refitting, amounted to twenty-four hundred ninety-four 67-100 dollars. Mr. Oliver C. Gardner has a bill against the owners of about seventy-five dollars, which was not included in the settlement. No charge was made by either of the owners for labor performed by men who were constantly in their employ, or for truckage. I settled the account between the owners, and received from V. Hussey & Brother the balance due from them to Philip H. Folger. Every bill I believe was paid agreeably to the face of the account.

Answer to the 38th. The usual price for labor is one dollar per day at common work in wreck vessels at the shore. Exposed to the wet, it varies from one dollar twenty-five cents to two dollars 50-100.

Answer to the 39th. I never saw her.

Answer to the 40th. No one besides the magistrate. I never saw the questions before being called upon to answer them. No answer has been written down for me to sign.

Answer to the 41st. I obtained my information from the accounts and papers handed me by the owners.

Answer to the 42d. I was not.

Answer to the 43d and to the 53d. I have previously stated all I know relative to the brig.

Answer to additional Direct Interrogatory.

Answer to the 27th. From the accounts handed it appeared they had pur-

chased a considerable amount of rigging and equipments. I am not able to specify them particularly, or the cost of each.

Answer to the 28th. I do not know.

Answer to the 29th. I do not know.

Answer to further Cross Interrogatories.

I never was concerned in a wrecked vessel, and have but litile knowledge on the subject.

Nantucket, May 12th, 1832.

FRANKLIN MACY.

Deposition,	$5 00
Deponent's fee,	58
	5 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this twelfth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth Franklin Macy, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and affirmed, in due form of law, to testify the truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States, next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh solemn affirmation to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Answers to Direct Interrogatories.

Answer to the 1st. My name is John Cartwright—my age is upwards of seventy-nine years; my profession or business is mercantile.

Answer to the 2d. I am acquainted with Philip H. Folger, but not with the plaintiffs.

Answer to the 3d. I remember she was ashore, but did not see her there.

Answer to the 4th. I saw her first lying at the wharf.

Answer to the 5th. Not at all.

Answer to the 6th and 7th. I know nothing of the efforts made to get her off, nor who worked upon her.

Answer to the 8th. I believe Geo. Myrick, jr., was, and rather think George Myrick was.

Answer to the 9th. That I know nothing about.

Answer to the 10th. I should say the place where she went on shore was much exposed. Like all other places in this climate, storms are very frequent at that season. Sometimes severe.

Answer to the 11th. I do not recollect.

Answer from 12th to 16th. I know nothing about these facts.

Answer to 17th. The brig was got off, and I believe Philip H. Folger was he principal in dioing it.

Answer to 18th. She was brought into the harbor of Nantucket.

Answer to 19th. She was repaired, but I do not know to what extent. I presume at the expense of Philip H. Folger, and Valentine Hussey and Brother.

Answer to 20th, 21st and 22d. I do not know any thing of the amount of the expenses of getting off and repairing the vessel.

Answer to the 23d. I believe Philip H. Folger superintended in getting her off; and he, with Valentine Hussey, in refitting her.

Answer to the 24th. This question I know nothing of.

Answer to 25th. I think it was. It has been the general practice of masters and agents of vessels wrecked on the south side of this island, for sixty years past, to sell them after being discharged of their cargoes. I don't recollect of but two instances where the vessel was got off by the master or agent.

Answer to 26th. I recollect nothing more.

Answers to Cross Interrogatories.

Answer from the 1st to the 16th inclusive. I know nothing of the facts enquired of in these interrogatories.

Answer to 17th. I was never interested in this vessel myself, nor any of my relations, to my knowledge. I consider Philip H. Folger and Valentine Hussey and Brother my intimate friends.

Answer from 18th to 37th inclusive I am ignorant of these matters.

Answer to 38th. The usual price of labor in wrecking is from $2 50 to $3 per day, at that season.

Answer to 39th. I never saw the brig Pearl, and know of her being cast ashore only by hearsay.

Answer to 40th. The magistrate. These questions have not been shown me, and no answers have been written for me to sign before.

Answer to 41st. What I have stated positively, has been from my own knowledge.

Answer to 42d. I was not.

Answer to 43d. I never saw her on shore.

Answer from 44th to 53d inclusive. All this matter I know nothing of, and recollect nothing more that will be of benefit to either party.

Answer to additional Direct Interrogatory.

27th. I do not know.

Answer to further Direct Interrogatories.

28th. I don't know—but am of opinion not more than one-twentieth part.

29th. I do not know.

Answer to further Cross Interrogatories.

It is not in power to answer, having no data to go from.

Nantucket, May 10th, 1832.

JNO. CARTWRIGHT.

Deposition	$5 00
Deponent's fee	58
	$5 58

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On this tenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, personally appeareth John Cartwright, before me, the subscriber, duly commissioned to act in the premises, and being by me carefully examined and cautioned and affirmed in due form of law, to testify the whole truth and nothing but the truth, relating to a certain cause now pending in the circuit court of the United States next to be holden at Boston, within and for the Massachusetts district, on the fifteenth day of May now current, wherein John Crosby and another are plaintiffs, and Philip H. Folger and others are defendants, and maketh solemn affirmation to the truth of the foregoing answers to the interrogatories put to him, and subscribes the same in my presence.

M. T. MORTON, Jus. Pacis.

Decree.

And now, after a full hearing of the cause, upon the facts proved, and the arguments of counsel, and mature deliberation thereon had: the court doth order, adjudge and decree, that the decree of the said district court in the premises be, and the same is hereby affirmed, with costs. It is therefore ordered, adjudged and decreed by the court, that the said libel stand dismissed, and that the said Obadiah Woodbury, Charles Fitz and Philip Priestly recover against the said New England Marine Insurance Company costs of suit taxed at

From this decree the proctor for the libellants claims an appeal to the Supreme Court of the United States next to be holden at Washington, on the second Monday in January next, which appeal is allowed by the court upon a stipulation being entered into by the said libellants to prosecute their said appeal to effect.

Whereupon, on the twelfth day of September, A. D. 1835, personally appeared in court James Hall, of Boston, in the county of Suffolk and district of Massachusetts, President of the said New England Marine Insurance Company, and in behalf of the said company, submitting himself to the jurisdiction of this court, bound himself, his heirs, executors and administrators in the sum of five hundred dollars unto the said Obadiah Woodbury, Charles Fitz and Philip Priestly, the respondents aforesaid, that the said New England Marine Insurance Company shall prosecute their said appeal to effect, and answer all damages and costs if they fail to make good their said claim.

And thereupon the appeal is allowed by the court.

I, Francis Bassett, clerk of the courts of the United States for the Massachusetts district, hereby certify that the foregoing, consisting of one hundred and ninety-eight pages, is a transcript of all the proceedings in the said cause in the circuit court of the United States for the first circuit.

[SEAL.] In testimony whereof I have hereto set my hand and affixed the seal of the said circuit court, this thirtieth day of December, A. D. one thousand eight hundred and thirty-five, and in the sixtieth year of the independence of the United States of America.

FRANCIS BASSETT, Clerk.